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# Daily Report
## Supplement

# East Europe

## Hungarian Privatization Law, Strategy

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# East Europe
## SUPPLEMENT
### Hungarian Privatization Law, Strategy

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## Law on Privatization Published, Strategy Outlined

### Law on Privatization

*95CH0251A Budapest MAGYAR KOZLONY in Hungarian 17 May 95 No 38, pp 1792-1811*

[Law No. XXXIX of 1995 on the sale of entrepreneurial assets owned by the state, adopted by the National Assembly on the legislative day of 9 May 1995]

[FBIS Translated Text] To strengthen economic conditions based on private ownership, to accomplish a rational acceleration in reducing state-owned property, to transfer state-owned entrepreneurial property to private ownership based on market processes, and to reduce the role played by the state in the economy, the National Assembly creates the following law:

### Chapter I.

### INTRODUCTORY PROVISIONS

*The State's Duty To Sell*

**Paragraph 1.**

(1) Except for property specified in Paragraphs 7 and 8, all property subject to the authority of this Law is only temporarily owned by the state. It shall be the primary function of the State Privatization and Property Management Corporation (APV Rt.) to sell to private owners (privatization) as soon as possible the related stock and business shares owned by the state (hereinafter: company shares) and other property (hereinafter jointly: assets).

(2) Until privatization is accomplished, the APV Rt. shall provide for the utilization of the assets. As part of this effort, the APV Rt. shall take all necessary action to prepare for privatization and shall provide for the appropriate management of the assets.

(3) In performing its privatization activities and providing for the utilization of assets, the APV Rt. shall exercise the rights of the state as the owner, except as provided for by this Law.

(4) In the context of this Law, natural persons, individual entrepreneurs (Law No. V. of 1990), corporations organized under civil law, companies, cooperatives, public service nonprofit corporations, investment funds, voluntary mutual insurance funds (Law No. XCVI. of 1993), the Employee Part-Ownership Program (hereinafter: MRP), water resource management and forest ownership associations, as well as other associations shall qualify as private owners. In the context of this Law, a foundation may be regarded as a private owner only insofar as the founders of the foundation are private owners, as defined in this section.

(5) If local governments, local health insurance or pension insurance boards, other public bodies, public foundations or voluntary mutual insurance funds (Law No. XCVI. of 1993) present themselves as buyers when assets to be privatized are being sold, rules pertaining to private owners shall be applied, unless otherwise provided for by law.

(6) In the context of this Law, foreign legal entities not mentioned in Section (4), in addition to foreign natural persons, shall be regarded as private owners, irrespective of the legal form in which they are organized.

*Privatization Requirements*

**Paragraph 2.**

(1) In the course of selling assets subject to the authority of this Law, the following requirements in particular shall be observed. [The purpose of privatization shall be:]

(a) to increase management efficiency, to ameliorate the shortage of capital, to ensure the needed increase in capital, to acquire internationally recognized state of the art techniques as well as management and marketing skills, to halt the loss of markets, and to acquire new markets;

(b) to stimulate structural change in the economy, to advance the renewal of the organizational system of enterprises, to decentralize, within rational limits, structures that inhibit competition, and to broaden the scope of persons and organizations involved in the marketplace;

(c) to develop the Hungarian capital market, and to attract domestic as well as international capital in an organized fashion, through investment funds and corporations;

(d) to maintain and strengthen foreign investors' interest in privatization, and especially the interest of strategic investors (investors already active in the same field elsewhere);

(e) to support Hungarian entrepreneurs, contractors and base material producers in acquiring property, especially in the field of agriculture and the food industry, and to protect Hungarian producers and Hungarian industry in a manner consistent with international agreements;

(f) to preserve and to create work places, and to enforce social welfare considerations as those relate to employed persons;

(g) to advance ownership by workers as well as management buyouts;

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(h) to preserve the ability of companies to function; to utilize privatization revenues so as to stabilize finances, develop the manufacturing structure and technology, to reorganize, to ameliorate environmental damages and the burden flowing from the need to protect the environment, and to expand exports;

(i) to provide appropriate assets in exchange for compensation vouchers.

(2) In issuing a privatization tender, the APV Rt. or its delegate shall be obligated to designate in advance which of the individual considerations enumerated in Section (1) it expects to realize as a result of a given privatization action, and shall indicate the individual considerations that were taken into account in judging the offers received.

**Paragraph 3.**

(1) The APV Rt. shall provide access to information pertaining to assets for sale, for all persons interested in buying or investing. In doing so, the APV Rt. shall provide equal opportunity for investors.

(2) The APV Rt. shall maintain authentic records of the assets for sale; such records shall contain the most important information in a manner consistent with accounting requirements. The records shall contain extracts from the companies' registrations as firms, the latest financial reports filed by companies, as well as other basic data specified in the APV Rt.'s rules and regulations governing competitive bidding processes (Paragraph 33 Section (4)). Anyone shall be permitted to view these records.

(3) The APV Rt. shall establish an internal audit and control system which ensures the continuous oversight of privatization transactions. Rules for the internal audit and control system shall be adopted by the government within 30 days after the effective date of this Law, in due regard to the opinion expressed by the State Auditor General's Office (hereinafter: ASZ).

**Paragraph 4.**

(1) The APV Rt. shall cooperate with the ministries involved while preparing for privatization and in making privatization decisions, and shall enable the appropriate evaluation of professional considerations. The APV Rt. shall proceed consistent with views expressed by the competent minister in resolving issues delegated by the Gt. [law on business organizations] under the exclusive jurisdiction of the general meetings (meetings of members) of companies.

(2) Provisions shall be made in the course of privatization for the appropriate enforcement of employment, competition, and environmental protection considerations, in due regard to the financial feasibility of performing on the related obligations.

*The Scope of Authority of This Law*

**Paragraph 5.**

(1) On the effective date of this Law, assets defined in Section (2) are hereby assigned with reduced capital stock to the APV Rt.

(2) The authority of this Law extends to:

(a) all company shares—not owned by outside entrepreneurs—of state enterprises transformed into companies based on Law No. XIII. of 1989 on the transformation of economic organs and business organizations, Law No. LIV. of 1992 on the sale, utilization, and safeguarding of assets temporarily owned by the state, and Law No. LIII. of 1992 on the management and utilization of entrepreneurial assets to be owned by the state in the long term;

(b) the assets of state enterprises, trusts, trust enterprises, and other state economic organs operating under the authority of Law No. VI. of 1977 concerning state enterprises (hereinafter: Vt.) except for public utility enterprises (Vt. Paragraphs 45-46);

(c) the assets of state enterprise subsidiaries established pursuant to Paragraph 74 of Law No. IV. of 1959 on the Civil Code of Laws (Ptk.);

(d) company shares not mentioned under Subsection (a) above, assigned to the State Property Agency [AVU] or owned by the State Property Management Corporation [AV Rt.] on the effective date of this law, and other assets and rights having pecuniary value to which these organizations are entitled, as well as the liabilities of these organizations;

(e) entrepreneurial assets to be transferred to the APV Rt. from the Treasury Assets Management Agency [KVSZ] based on Paragraph 71 Section (2) of this Law;

(f) the provisions of Paragraphs 27-34 of this Law shall be observed when privatizing one-person corporations, owned by state enterprises or companies;

(g) permission shall be obtained from the APV Rt. when consummating sales pursuant to Subsection (f).

(3) The following are exempt from under the authority of this law:

(a) the State Development Institute Corporation,

(b) except for the National Translation and Translation Authentication Office Corporation, all business organizations in which the rights of the state as the owner are

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exercised by the minister of justice on the effective date of this Law, based on Law No. LIII. of 1992,

(c) forest lands owned by the state on the effective date of this Law, and

(d) business organizations whose purpose is to provide rehabilitation and work therapy services, in which the minister of public welfare exercises the state's rights as the owner in whole or in part on the effective date of this Law, based on Law No. LIII. of 1992 on the management and utilization of entrepreneurial assets to remain under state ownership in the long term.

**Paragraph 6.**

(1) If the assets enumerated in Paragraph 5 include protected natural areas, real property protected as historical landmarks, or memorabilia or collections that are museum pieces, the sale, transfer for management purposes, or encumbrance of such assets shall require the concurrence of the minister of environmental protection or the minister of the public education respectively, as required by separate legal provisions. Contractual agreements consummated in the absence of concurrence by the respective ministers are null and void.

(2) With respect to arable land assigned to the APV Rt., the APV Rt. shall exercise the rights of the owner in concurrence with the minister of agriculture. Contractual agreements consummated in the absence of such concurrence are null and void.

*Property Under Long-Term State Ownership*

**Paragraph 7.**

(1) Assets specified in Paragraph 5, or certain proportions of such assets may remain under long-term state ownership if the assets, or the companies operating the assets are

(a) national public utility service providers;

(b) deemed to be of strategic significance from the standpoint of the national economy; or they

(c) execute a national defense or some other special task, or serve such purpose.

(2) Company shares required to achieve state majority ownership pursuant to Law No. XVI. of 1991 on concessions shall be part of the property owned by the state in the long-term.

(3) Regarding property owned by the state in the long term, the state's ownership share shall not be smaller than 50 percent plus one vote. On an exceptional basis, this Law also establishes the smallest extent of the state's ownership share as 25 percent plus one vote, or in the form of stock ensuring priority votes.

(4) The Appendix to this law enumerates companies remaining under long-term state ownership, indicating the extent of state ownership, and the ministers or state organizations that exercise the rights of the state as a member (stockholder). It shall be the function of the ministers designated in the Appendix to determine the pace and extent of privatizing a given company's ownership shares beyond the state's ownership shares defined in Section (3), and it shall be the function of the APV Rt. to implement the privatization of such ownership shares, in agreement with the designated ministers.

**Paragraph 8.**

(1) The placement of companies partly owned by the state under long-term state ownership, the determination of the extent of long-term state ownership, and the termination of long-term state ownership shall be based on laws initiated by the government, and adopted by the National Assembly. The APV Rt, the minister concerned with the basic activity of a given company, and the concerned employer and employee interest groups may submit recommendations to the government in this regard.

(2) The government shall render decisions regarding the privatization of companies that are significant from the standpoint of the functioning of the national economy. The government may submit such decisions to the National Assembly for approval. The National Assembly determines which enterprises are significant from the standpoint of the functioning of the national economy, based on a proposal submitted within 60 days from the effective date of this Law jointly by the minister without portfolio in charge of privatization and the finance minister.

(3) Concerned professional and employee interest groups may express their views regarding the privatization concepts of companies defined in Section (2), before decisions are made.

## Chapter II.

## THE ORGANIZATION AND OPERATION OF THE STATE PRIVATIZATION AND PROPERTY MANAGEMENT CORPORATION

*The Establishment of the APV Rt.*

**Paragraph 9.**

(1) The name of the State Property Management Corporation established by virtue of Law No. LIII. of 1992 shall be changed to State Privatization and Property Management Corporation (APV Rt.) on the effective date of this Law.

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(2) The APV Rt. shall be a one-person corporation. The APV Rt.'s stock shall be registered and shall be nonnegotiable. (Ptk. Paragraph 172)

(3) The government as the founder shall have authority to adopt and to amend the APV Rt.'s articles of incorporation.

(4) Unless otherwise provided for in this Law, the rules contained in Law No. VI. of 1988 on business organizations (hereinafter: Gt) shall be appropriately applied.

(5) The APV Rt. may be disbanded as a result of a law adopted by the National Assembly.

**Paragraph 10.**

The State Property Agency shall be disbanded on the effective date of this Law. Along with universal legal succession, its authority and obligations shall be transferred to the APV Rt. by virtue of this Law. Unless otherwise provided for in the Appendix to this Law, the APV Rt. shall exercise the rights of the owner over assets presently dealt with by the State Property Agency, after the effective date of this Law. Such assets shall be regarded as assets assigned to the APV Rt. (Paragraph 21 Section (1)).

*The Organization of the APV Rt.*

**Paragraph 11.**

(1) Except for rights assigned by this Law to the government as a body, the rights of stockholders in the APV Rt. shall be exercised by the minister without portfolio in charge of privatization (hereinafter: stockholder's representative).

(2) Except for rights reserved to the founder in Paragraph 9 Section (3), and except for the right to withdraw the authority of the board of directors, the stockholder's representative shall be entitled to exercise the authority of the general meeting regarding APV Rt. operations.

**Paragraph 12.**

(1) A board composed of 11 directors shall be the leading organ of the APV Rt. as a body corporate. The mandate of the chairman and members of the board of directors (hereinafter jointly: members of the board) shall last until the APV Rt. is terminated, but in no event longer than three years; at the same time, however, members of the board may be recalled at any time. Only natural persons shall serve as the chairman and members of the APV Rt. board.

(2) In exceptional cases the chairman of the board may suspend a decisionmaking proceeding before the board reaches a decision and may ask the stockholder's representative to request the government to take a position regarding a given case.

(3) The government shall appoint and relieve of their duties the chairman and members of the board. The minister without portfolio in charge of privatization, in agreement with the minister of finance, shall recommend persons to serve as members of the board. National Assembly or local government representatives, representatives of health insurance and pension insurance boards, or persons otherwise excluded by law from being appointed shall not serve as members of the board.

(4) The National Assembly committee having jurisdiction shall examine the person nominated to serve as chairman of the board in the framework of a hearing, prior to his appointment.

(5) Ministers concerned with decisions of the board shall be invited to the meetings of the board.

(6) The chairman of the Office of Economic Competition, or his designated representative shall have a standing invitation to the meetings of the board; his views regarding the competitive or anti-competitive impact of decisions shall be considered by the board.

**Paragraph 13.**

(1) While serving on the board of directors, and until two years thereafter, members of the board shall not be employed by, or work for companies specified in Paragraph 5. During this period, appointments of board members to serve as leading officials, or as members of the supervisory committees in companies subject to the authority of this Law are invalid.

(2) While serving on the board of directors, and until two years thereafter, members of the board and their close relatives (Ptk. Paragraph 685 Subsection (b)) shall not acquire shares in companies in which the APV Rt. exercises the rights of members (stockholders), and the relatives of board members shall not serve as leading officials or auditors in, or as members of the supervisory committees of such companies.

(3) While serving on the board of directors, and until two years thereafter, members of the board and their close relatives shall not acquire company shares, and shall not serve as leading officials or as members of supervisory committees in companies which acquired a company share larger than 25 percent from the APV Rt. while the member of the board served in that capacity.

(4) If justified, the person exercising the appointing authority may wave the prohibition or restriction specified in Section (1), after a person's membership on the board has ceased.

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**Paragraph 14.**

(1) A Supervisory Committee composed of 11 members shall oversee the operations of the APV Rt. The mandates of the chairman and the members of the supervisory committee shall last until the APV Rt. is terminated, but in no event longer than three years; at the same time, however, the chairman and members of the supervisory committee may be recalled at any time. The provisions of Paragraph 13 of the Gt. shall not be applied relative to the APV Rt.

(2) The government shall appoint and recall the chairman of the supervisory committee, upon a recommendation made by the chairman of the State Auditor General's Office. Six members of the supervisory committee nominated by the six parliamentary groups of National Assembly representatives—with one member nominated by each group—shall be appointed by the government. Both the employer, and the employee sides of the Interest Reconciliation Council shall also nominate one each member of the supervisory committee. The government is obligated to appoint the latter two nominees as members of the supervisory committee, except in cases of incompatibility. No National Assembly representative shall serve as a member of the supervisory committee.

(3) The National Assembly committees having jurisdiction shall examine in the course of a hearing the chairman of the supervisory committee prior to his appointment.

(4) The government shall render a decision concerning the recall of any supervisory committee member nominated by either the employer or the employee side of the Interest Reconciliation Council only if recommended by, and in agreement with the nominating organization.

(5) Rules provided in Paragraph 13 shall also be appropriately applied in regard to members of the supervisory committee.

**Paragraph 15.**

The stockholder's representative shall appoint for a fixed term the auditor of the APV Rt., upon recommendation by the chairman of the State Auditor General's Office. Incompatibility rules provided in Paragraph 13 shall also be applied in regard to the auditor.

**Paragraph 16.**

(1) Members of the board, members of the supervisory committee, and the auditor shall exercise the kind of care one could expect from persons holding such offices. They shall be responsible under both civil and criminal law for damages caused to the APV Rt. if they fail to perform their duties, even if they are employed by the company or are in a contractual relationship with it.

(2) The employer of, or the organ nominating a member of the board, a member of the supervisory committee or the auditor shall not instruct members of the board, members of the supervisory committee, or the auditor.

**Paragraph 17.**

Members of the board, members of the supervisory committee, as well as the auditor shall treat information related to the business affairs of the APV Rt. as secret. (Gt. Paragraph 33)

**Paragraph 18.**

The staff of the APV Rt. shall be headed by a chairman and president employed by the APV Rt.; he shall provide leadership to the staff pursuant to this Law, legal provisions in force, the APV Rt.'s articles of incorporation, determinations made by the stockholder's representative, and the decisions of the board of directors.

**Paragraph 19.**

(1) Except for artistic, scientific, and educational activities, leading employees of the APV Rt., as defined in the organizational and operating rules of the APV RT., as well as administrators participating in decisionmaking processes, shall not pursue any other income-producing activity.

(2) For two years after termination of their employment with APV Rt., persons enumerated in Section (1) shall not be employed by, shall not perform work for and shall not become leading officials of companies in which the APV Rt. exercises the rights of members (stockholders) in whole or in part, or in the sale of which they were involved. They shall not acquire ownership shares in such companies during their employment with the APV Rt., or within two years after termination of their employment.

(3) Persons enumerated in Section (1) shall not participate in judging the affairs of a company in which they, or a close relative of theirs (Ptk. Paragraph 685 Subsection (b)), have an interest. This provision shall also apply to members of the APV Rt. board of directors.

(4) The provisions of Paragraph 13 Section (3) shall be appropriately applied to persons designated in Section (1).

(5) If justified, the prohibition and restriction specified in Section (2) may be waived by the prime minister in regard to the chairman and president, and his deputies,

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and by the minister without portfolio in charge of privatization, in regard to other employees after termination of their employment relationship or other legal relationship requiring the performance of work.

**Paragraph 20.**

Within 30 days from the effective date of this Law, the government shall approve organizational and operating rules for the APV Rt. Such rules shall be submitted to the government by the APV Rt. board of directors, and the government shall publish the rules in MAGYAR KOZLONY.

*The Management of the APV Rt.*

**Paragraph 21.**

(1) Assets assigned to the APV Rt., as well as revenues and expenditures related to the sale and utilization of these assets shall be managed separately from the APV Rt.'s own assets.

(2) A segregated recordkeeping system designed pursuant to Section (1) shall be proposed by the APV Rt. board of directors within 60 days from the effective date of this Law, after hearing the views of the State Auditor General's Office, and shall be submitted to the minister without portfolio in charge of privatization for his approval.

(3) If the government wishes to change its privatization strategy, it shall submit proposed changes as part of an appendix to the annual budget law to the National Assembly.

*The APV Rt.'s Management of Its Own Assets*

**Paragraph 22.**

(1) The APV Rt.'s own revenues:

(a) proceeds from the sale and utilization of assets owned by the APV Rt.;

(b) allotments (dividends) paid after company shares owned by APV Rt.;

(c) other income derived by APV Rt., not included in subsections (a) and (b).

(2) The APV Rt. may expend its own income primarily for the following purposes:

(a) to cover its own operating expenses;

(b) to cover expenses incurred in taking necessary steps to prepare for the sale of assets owned by the APV Rt.;

(c) for the payment of fees charged and expenditures incurred in conjunction with the sale of assets owned by APV Rt.;

(d) for the conveyance of consideration to which local governments are entitled based on land areas within municipal boundaries, or the founder's rights exercised by local governments earlier;

(e) for the establishment of companies and investment funds, or to acquire shares in such companies or funds;

(f) for the payment of fees to persons or organizations hired by the APV Rt. to manage property, and of expenses incurred in conjunction with the management of assets;

(g) for the payment of expenditures incurred as a result of sureties and warranties provided by the APV Rt. in conjunction with privatization;

(h) for the payment of expenses incurred in the course of reorganization that was indispensable from the standpoint of privatization;

(i) for discharging other obligations incurred pursuant to separate law.

*The Management of Assets Assigned to APV Rt.*

**Paragraph 23.**

The APV Rt. may expend revenues that materialized from assets assigned to it for the following purposes:

(1)(a) to cover expenses incurred in taking necessary steps to prepare for the sale of assets assigned to the APV Rt.;

(b) for the payment of expenditures incurred as a result of sureties, warranties, repayment of loans, and other needs to be satisfied by the APV Rt. in a given year, in conjunction with privatization;

(c) for the conveyance of consideration to which local governments are entitled based on land areas within municipal boundaries, or the founder's rights exercised by local governments earlier;

(d) for the establishment of companies and investment funds, or to acquire shares in such companies or funds;

(e) for the payment of fees to persons or organizations hired by the APV Rt. to manage property, and of expenses incurred in conjunction with property management;

(f) for the payment of fees charged and expenditures incurred in conjunction with the sale of assets assigned to APV Rt.;

(g) for the payment of expenses incurred in the course of reorganization that was indispensable from the standpoint of privatization;

(h) to cover the APV Rt.'s own operating expenses;

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(i) for discharging other obligations incurred pursuant to separate law.

(2) The APV Rt. shall establish a reserve fund to cover anticipated expenses enumerated in Section (1) Subsection (b) during the period following the conclusion of a given year.

(3) Regardless of the amount involved, the APV Rt. shall obtain the finance minister's agreement before making decisions to provide sureties or warranties.

(4) The state shall discharge the obligation specified in Section (1) Subsection (b) if neither the revenues in a given fiscal year, nor the reserves specified in Section (2) cover the related expenses.

**Paragraph 24.**

(1) As part of the annual budget law, the National Assembly specifies the amount to be paid to the central budget, debiting revenues that materialized pursuant to Paragraph 22 Section (1) Subsection (a) and Paragraph 23. The annual budget law will also determine the extent to which assets are to be transferred in order to enable the state to discharge its legally required obligations, the beneficiaries, and the upper value limit of loans to be taken out, and bonds to be issued by the APV Rt.

(2) In order to enhance privatization, the APV Rt. may establish companies or investment funds, and may acquire shares in such companies, or may make available assets as in kind contributions to such organizations.

*The Auditing and Control of the APV Rt.'s Activities*

**Paragraph 25.**

(1) The State Auditor General's Office shall audit the activities of the APV Rt. The board of directors of the APV Rt. shall file semiannual reports with the State Auditor General's Office concerning changes in its own assets and assets assigned to it, and concerning the utilization of such assets.

(2) The government shall report annually to the National Assembly—simultaneously with the submission of the legislative proposal on the previous fiscal year's budget performance—concerning the activities of the APV Rt., developments regarding assets owned by or assigned to the APV Rt., and the utilization of such assets. The Interest Reconciliation Council shall also review the report submitted to the National Assembly.

(3) The APV Rt. shall prepare a statement concerning the status of assets assigned to it and shall submit the statement simultaneously with its report.

(4) The report prepared by the chairman of the State Auditor General's Office concerning the APV Rt.'s activities shall be attached to the report.

**Paragraph 26.**

In response to a request by the National Assembly committee having jurisdiction, or by at least 20 percent of the number of National Assembly representatives, the APV Rt. board of directors shall present a special report to the committee or to the National Assembly, as the case may be, regarding any given privatization case.

## Chapter III.

## THE SALE OF ASSETS UNDER THE APV RT'S PURVIEW

*General Principles of Sale*

**Paragraph 27.**

(1) The APV Rt. shall sell the assets defined in Paragraph 1 Section (1) in due regard to the goals defined in Paragraph 2.

(2) The APV Rt. shall consummate sales

(a) directly,

(b) through the institutional system of the capital market,

(c) through investment funds and companies, and

(d) as a result of action taken by the leading officials of the companies (simplified privatization).

(3) Assets defined in Paragraph 5 may be sold in the framework of the following proceedings:

(a) open or closed invitations to bid,

(b) public auctions,

(c) public offers (hereinafter (a), (b), and (c) jointly: competitive bidding),

(d) public offers for sale,

(e) closed placements [as published],

(f) orders to sell at the stock exchange, and,

(g) in exceptional cases, without competitive bidding (Paragraph 28 Section (2)).

(4) In the course of selling assets under the authority of this Law, sales agreements shall be consummated with the bidder who makes the most favorable offer, while taking into consideration all the evaluation criteria.

(5) With respect to cash offers, and offers involving preferential privatization techniques pursuant to Chapter IV. for assets sold by way of competitive bidding,

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the APV Rt. shall use the realistic market value of anticipated revenues (current value) when evaluating offers. In case of identical offers, offers made by Hungarian investor(s) shall be preferred.

*Competitive Bidding*

**Paragraph 28.**

(1) Unless excepted by this Law, the APV Rt., or its commissioned sales agent, shall attempt to sell or place under property management the assets subject to public sale by way of competitive bidding.

(2) The requirement for competitive bidding may be waived

(a) when the stock of corporations established for the purpose of managing portfolio packages is sold publicly;

(b) in cases involving closed placements or orders to sell at the stock exchange;

(c) when shares of stock are exchanged;

(d) when company shares are made available to companies established pursuant to Paragraph 25 Section (2) for the purpose of making in kind contributions;

(e) when the APV Rt. sells state property to employees to the preferential extent defined in Paragraphs 54-57;

(f) if the APV Rt. (or its legal predecessor) provide an option for outside investor(s).

(3) Except as provided for in Paragraph 35, minority shares left over after the sale of the majority shares shall be sold at public auction, by making a public offer for sale (offering for sale), or by closed placement.

*Invitation To Bid*

**Paragraph 29.**

(1) Invitations to bid shall be announced by the APV Rt., or by the agent selling the property.

(2) Invitations to bid shall include:

(a) the purpose of the invitation;

(b) the designation of the assets to be sold; the value of the assets (nominal value, exchange rate, etc.) as needed;

(c) the conditions of sale—including acceptable methods of payment—and possible requirements related to business policies, employment policies and developmental policies, as well as policies calling for the mitigation of environmental damages and burdens, and for the utilization of assets for the company's social welfare purposes;

(d) the preferential privatization techniques that may be taken advantage of in a given case, from among all the preferential privatization techniques specified in Chapter IV.;

(e) the place where bids must be submitted, and the deadline for submission.

(3) In addition to the information specified in Section (2), to be included in the invitation to bid, a detailed prospectus shall also be prepared, providing the following information in particular:

(a) a presentation of the company, and as part of that

— the name of the firm,

— the place where the firm is domiciled,

— the date of foundation,

— the scope of activities of the firm,

— the length of time of operations,

— the amounts of the registered capital of the firm, as well as of the firm's equity capital,

— the company's liabilities and receivables,

— the number of person's employed by the firm,

— a listing of real properties owned or used by the company, and finally,

— the significant personal and professional data of leading executives and high-ranking management employees;

(b) a description of the firm's business activities supported by analyses, permitting a comprehensive assessment of the firm, including, especially, information related production, sales, research and development, as well as investments;

(c) the most recent certified financial statement (balance sheet, profit and loss statement, etc.);

(d) data pertaining to the sale:

— the planned size of the sale,

— the kinds and types of rights (securities) that embody the assets, and the rights related to those,

— prerogatives, if any, to which the founders are entitled, and

— par value and/or exchange rate;

(e) and the environmental protection conditions related to the operations of the company.

(4) The detailed prospectus shall be given to interested investors only after they sign a statement committing themselves to keep the prospectus a secret.

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(5) When selling securities, related provisions in separate law shall also be taken into consideration.

(6) The provisions of this Paragraph shall be appropriately applied if the APV Rt. issues a invitation to bid calling for the management of property.

**Paragraph 30.**

(1) Invitations to bid may be open to the public, or may call for limited competition.

(2) An invitation to bid is open to the public, if

(a) the scope of bidders cannot be predicted; or if

(b) the number of potential bidders is not known.

(3) An invitation to bid calls for limited competition if the exclusive means of communicating the invitation is direct contact with interested parties, calling for the submission of bids by a certain deadline. Invitations calling for limited competition shall be issued only in exceptional cases.

(4) Open invitations to bid (Paragraph 29 Section (2)) shall be communicated through public announcements containing the essential data of the company, appearing in at least two daily newspapers having nationwide circulation, or in one daily newspaper having nationwide circulation and one local newspaper published where the company is domiciled, and further, in the public information bulletin of the APV Rt. at least 30 days prior to the announced starting date when bids may be submitted. Regarding invitations calling for limited competition, the fact that offers are being solicited shall be publicized and shall be announced pursuant to rules applicable to open invitations to bid.

(5) The APV Rt. rules and regulations for competitive bidding shall provide detailed rules for conducting public auctions and for the judging of bids.

*The Protection of Employee Interests*

**Paragraph 31.**

(1) At least 30 days prior to issuing an announcement for the sale of assets, and further, at least 30 days prior to reaching a specific decision, the APV Rt. or its commissioned sales agent shall inform in writing the employee interest representation organs of the company about all data (circumstances) which, as a result of selling the assets,

(a) could affect the employment, income and wages, social provisions, work conditions, and the training of employees; and

(b) could apply to possible opportunities available to employees to acquire property.

(2) The concurrence of employee interest representation organs shall be required regarding the utilization of assets that serve welfare or social purposes.

(3) The APV Rt. or the sales agent shall provide an opportunity for employee interest representation organs to express their views regarding privatization decisions before such decisions are made. Statements of views expressed by the employee interest representation organs shall be attached to the memorandum described in Paragraph 34.

(4) The APV Rt. or the sales agent shall provide a written response to written statements expressing the views of employee interest representation organs within 15 days from date of receipt of such statements.

(5) The APV Rt. shall make available to the employee interest representation organs of the affected company the consummated sales or property management agreement, and the provisions of other related agreements which apply to matters specified in Section (1) Subsections (a) and (b).

*Judging the Offers*

**Paragraph 32.**

(1) Bids taking advantage of preferential privatization techniques specified in Chapter IV. may be considered only if no valid bid at or above the specified minimum price, offering cash payment of the full amount within 60 days, and complying with conditions specified in Section (3), are received.

(2) In judging several bids received for the same property which took advantage of preferential privatization techniques specified in Chapter IV., the various prices offered shall be compared based on the realistic market value of anticipated revenues at the time of evaluation (current value) based on the privatization technique (method of payment) chosen.

(3) In judging competitive bids or individual offers, in addition to the provisions of Paragraph 2, special attention shall be paid to the bidder's (offeror's) commitments regarding reorganization, capital increase, technical development, structural change and the continued employment, income, and social services to be provided to employees, as well as in regard to the mitigation of environmental damages and the alleviation of the environmental burden.

(4) Commitments made pursuant to Section (3) may be preferred over more favorable price offers when judging competing bids. The sales agreement to be consummated, however, shall include appropriately enforceable provisions regarding ancillary obligations (Ptk. Paragraphs 243-276) and, in given cases, other assurances.

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including sanctions for violating the provisions of the agreement, in order to render performance on the commitments enforceable. Arguments supportive of possible preferential treatment shall be provided as part of the memorandum specified in Paragraph 34.

(5) As part of the proposed sales agreement, the APV Rt. or its commissioned sales agent shall provide for the verification of performance on the agreement. Buyers shall not disclaim responsibility for violating provisions of sales agreements, and any contrary condition contained in the agreement shall be null and void.

**Paragraph 33.**

(1) If identical conditions are agreed to, and if bidders and offerors satisfy the requirements established in Paragraph 32 Section (4), the following bidders and offerors shall be given preference, in this order:

(a) companies or cooperatives operating with the participation of at least 25 percent of the workers of the company to be privatized,

(b) participants in the Employee Part-Ownership Program of the given company,

(c) a worker employed by the company to be privatized, acting as an independent entrepreneur.

(2) The APV Rt. shall publicize the results of the bidding process without delay, as well as the corresponding agreement for property management, lease, sale, or authorization to sell, with arguments supporting its decisions, in a manner identical to the publication of the issuance of the invitation to bid. If the invitation called for limited competition, the above information shall also be conveyed directly to the bidders.

(3) If the purchase price evolved in the course of bidding, the APV Rt. shall waive responsibility for violating provisions at the time of sale, except if a waiver of responsibility was provided for in the invitation to bid, in due regard to Ptk. Paragraph 314 Section (2).

(4) The APV Rt.'s rules and regulations for competitive bidding shall be subject to approval by the government, and shall be published in MAGYAR KOZLONY.

**Paragraph 34.**

The decisionmaker in any given privatization case shall describe the sales proceeding in a memorandum. In addition to other requirements established by this Law, the memorandum shall contain a description of the most important circumstances of the sales proceeding, thus, in particular:

(a) arguments supportive of the chosen method of sale;

(b) a summary of the offers received;

(c) arguments supportive of the acceptance of the most favorable offer;

(d) considerations upon which the purchase price was based (including commitments made by the buyer that influenced the purchase price);

(e) considerations regarding the appropriateness of assurances stipulated;

(f) arguments supportive of the chosen method of payment;

(g) if employee interest representation organs submitted written views, the written views submitted as well as the written response;

(h) other circumstances regarded as important by the seller.

**Paragraph 35.**

In exceptionally justified cases, the APV Rt. may transfer state property without monetary compensation to the following buyers under the following circumstances:

(a) to buyers who provide appropriate assurances and agree to perform on obligations specified in Paragraph 32 Section (3);

(b) if the transfer has a legal foundation and is made to a public foundation, a public purpose foundation, public body, or to some other public purpose association, which agrees to perform a public function specified by law, and/or preempts the cost of a function which represents a cost center in the state budget; or

(c) in other instances specified in annual budget laws.

*The Sale of Minority Shares*

**Paragraph 36.**

(1) State corporate shares representing less than 25 percent plus 1 vote of the shares, and not included in a privatization portfolio, shall be offered for sale by the APV Rt. to the rest of the members of the corporation in proportion to the assets, or to the corporation itself, in this order.

(2) If the proceeding described in Section (1) produces no result, the minority share shall be sold at public auction.

*Simplified Privatization*

**Paragraph 37.**

(1) Shares of stock of medium size and small corporations owned by the state shall be sold pursuant to the

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provisions of Paragraphs 38-45 (hereinafter: simplified privatization), if, in the year 1994 the corporation's

(a) equity capital did not exceed 600 million forints [Ft], and

(b) the annual average number of full-time employees did not exceed 500.

(2) In exceptional cases when the interests of privatization so warrant, and in due regard to opinions expressed by competent ministers, the APV Rt. board of directors may order the simplified privatization of companies which do not comply with the Section (1) criteria; conversely, the APV Rt. board of directors may withdraw corporations complying with the Section (1) criteria from among companies subject to simplified privatization, provided that such withdrawal takes place prior to the publication of the list specified in Paragraph 38 Section (1).

(3) Simplified privatization processes shall not be used when privatizing financial institutions and insurance companies.

**Paragraph 38.**

(1) The APV Rt. shall publicize lists of companies subject to simplified privatization—together with a call for cash purchase—in at least two daily newspapers with nationwide circulation, and in the APV Rt.'s public information bulletin. The publication of these lists shall be accomplished in two phases, one prior to 30 September 1995, and the other prior to 31 December 1995. Simultaneously with the publication of these lists, the APV Rt. shall ensure the availability of information specified in Paragraph 29 to investors, as such information relates to the companies included in the lists.

(2) Cash offers for shares of companies included in the list, at or above the specified minimum price, may be submitted to the APV Rt. within 90 days from the date of publication.

(3) If no cash offers pursuant to Paragraph 32 Section (1) are received prior to the deadline specified in Section (2), the APV Rt. shall notify without delay the applicable company in order to initiate a simplified privatization proceeding.

(4) The APV Rt. shall judge cash offers received under the authority of this Paragraph within 60 days from the deadline specified in Section (2)—in due regard to the provisions of Paragraphs 27-33 of this Law—and shall notify the applicable company accordingly.

(5) The provisions of Paragraph 34 shall be appropriately applied also in regard to companies subject to simplified privatization.

**Paragraph 39.**

(1) The boards of directors, or the managing directors of companies have the authority and duty to decide whether their companies should be made subject to simplified privatization in the framework of Paragraphs 27-34 of this Law, and to take necessary action to prepare for privatization. No company's board of directors shall apply Subsections (e) and (g) of Paragraph 27 Section (3).

(2) A company may, at its own expense, engage the services of an expert when preparing for privatization.

(3) If as a result of the preparatory work it is determined that the leading officials and employees of the company, or a corporation in which the majority of the shares is owned by the former, wishes to purchase a total of at least 50 percent of the company's shares, the board of directors (managing director) shall report this fact to the APV Rt. and shall request a further decision from the APV Rt.

**Paragraph 40.**

(1) Companies shall report their preliminary decisions regarding privatization to the APV Rt. Reports shall describe offers to buy received by the companies. If a company receives several offers, the offer deemed to be most favorable by the company's board of directors or managing director must be indicated. Such choice shall be based on the provisions of Paragraphs 32 and 33. The memorandum required by the provisions of Paragraph 34 shall be attached to such reports.

(2) The board of directors of the APV Rt., or the APV Rt.'s leading officials, as determined by the organizational and operating rules of the APV Rt., shall take a position regarding such reports within 60 days from date of receipt of the reports.

(3) The APV Rt. may reject reports deemed to be unsuited to serve as a basis for decisionmaking within 15 days of receipt of such reports; if additional information is required, or for some other important reason, the proceeding may be extended in one instance by not more than 30 days, at least 15 days before the deadline stipulated in Section (2). In extending the proceeding, the reason for the extension shall be stated.

**Paragraph 41.**

(1) The APV Rt. shall obtain the views of at least two outside experts regarding reports received from

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companies, before making decisions. The APV Rt. shall render its decisions based on an evaluation of the expert opinions.

(2) The APV Rt. may prohibit the sale of a company even if such sale is consistent with an offer, or with the most favorable offer, and further, the APV Rt. may establish conditions for the sale and may require the establishment of safeguards to ensure performance on the contract. The APV Rt. shall provide arguments supportive of such decisions and shall convey these to the company.

(3) If the APV Rt. fails to exercise the prerogative established in Section (2) within 60 days from date of receipt of the company's report, or within 90 days if conditions specified in Paragraph 40 Section (3) prevail, the company may proceed on its own with simplified privatization in a manner consistent with its report.

(4) To facilitate the privatization process, the APV Rt. shall convey the expert opinions obtained pursuant to Section (1) to the company, even if it does not exercise the authority granted in Section (2).

**Paragraph 42.**

(1) Simplified privatization agreements involving the sale of company shares shall be signed by the APV Rt. as the seller. The APV Rt. may refuse to sign such agreements only if the substantive provisions of such agreements substantially deviate from the reports filed by the respective companies, or if the agreements are inconsistent with the Gt. or other legal provisions.

(2) The APV Rt. may terminate a simplified privatization proceeding if, due to its own fault, the company fails to present the agreement for APV Rt.'s signature within 90 days from the date when the decision required in Paragraph 40 Section (2) was communicated, or from the deadline specified in Section (3).

**Paragraph 43.**

State property shall not be transferred in the framework of simplified privatization in the absence of monetary compensation.

**Paragraph 44.**

(1) The leading officials of companies described in Paragraph 37 shall be involved in the sale of their companies. Action shall be taken against them under provisions of corporate and labor law if, by their own fault, they fail to satisfy this requirement by 31 December 1996. As a last resort, the APV Rt. shall initiate their recall.

(2) Companies to be privatized shall be entitled to receive 10 percent of the cash proceeds if sales agreements are consummated within one year from the effective date of this law. In such cases, the amount representing 10 percent of the cash proceeds shall be added to the company's assets, and regarded as excess capital stock (nominal capital). The excess capital stock shall be used within one year to increase the company's capital; 50 percent of the new stock representing the capital increment shall be given free of charge to the leading officials of the company, and 50 percent to the company's workers.

**Paragraph 45.**

Except for dividends payable in 1994 and 1995, the APV Rt. shall not withdraw assets from companies subject to simplified privatization on grounds of capital reduction or some other grounds prior to 30 June 1996.

## Chapter IV.

## PREFERENTIAL PRIVATIZATION TECHNIQUES

*Installment Sale*

**Paragraph 46.**

(1) Assets subject to the authority of this Law may also be sold on the basis of installment payment agreements.

(2) The maximum allowable term for installment payments shall be 15 years. Except with regard to the first installment, a grace period may be granted at the buyer's request for the rest of the installment payments. Grace periods granted shall be for a minimum of one year, and a maximum of three years. Only interest and handling charges shall be paid by the buyer during the grace period.

(3) The first installment shall become due on the thirtieth day after consummation of the sales agreement.

(4) The interest rate charged shall not be lower than 50 percent of the discount rate charged by the central bank.

(5) Under installment payment agreements the title to the assets shall pass to the buyer when the buyer makes the first installment payment. Any stipulation to the contrary is null and void.

(6) Performance on part of the buyer shall be ensured by stipulating ancillary obligations in the agreement, which provide appropriate security to the APV Rt. regarding the buyer's contract performance, but without unduly restricting the buyer in exercising his rights as a stockholder (member).

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**Paragraph 47.**

(1) Installment payments made by the buyer shall be applied first to handling charges due at the time of settlement, then to interest owed, and finally to the principal owed.

(2) The buyer shall have a right to prepay in a single lump sum cash payment the entire balance owed under the installment payment agreement.

(3) During the entire term of the installment payment agreement (hereinafter: term), the buyer shall have a right to accelerate payments under the agreement. Under accelerated installment payments, the buyer shall also have a right to reduce the total amount of installment payments owed for the remainder of the term, provided that the amount of installment payments shall not be smaller at any time during the term than the amount of installments that would be paid pursuant to the original payment schedule. This provision shall not be applied in regard to the final installment.

(4) The buyer shall lose the benefit of making installment payments, if any installment becomes overdue. In such instances the entire balance becomes due, payable in one lump sum. If the buyer fails to make payments by the deadlines stipulated in the agreement, he shall pay late fees for each day after the due date; late fees shall be charged at a rate amounting to twice the prevailing discount rate charged by the central bank.

**Paragraph 48.**

(1) If the buyer fails to make payments when due, the seller may opt to rescind or cancel the agreement, except if the buyer pays the delinquent part of the purchase price in one lump sum pursuant to Paragraph 47 Section (4), within 15 days after the date when payment became due.

(2) Agreements consummated with organizations whose purpose is to establish an Employee Part-Ownership Program (MRP) shall not be terminated by rescission.

**Paragraph 49.**

(1) The seller may also rescind a contract if the amount of equity capital recorded upon consummation of the agreement is reduced by more than 30 percent during the term of the installment contract, as evidenced by records prepared consistent with the audit and control law.

(2) The seller may verify the financial statement prepared by the buyer pursuant to the agreement reached with the buyer, in order to ascertain the condition described in Section (1); if necessary, the seller may hire an independent expert at the company's expense to conduct an audit.

*Sale of Assets, While Seller Retains Ownership (Privatization Leasing)*

**Paragraph 50.**

(1) Persons authorized to sell assets under this Law (hereinafter: seller) may also transfer company shares to a buyer while retaining proprietorship.

(2) The purpose of selling assets pursuant to Section (1) is to postpone the sale of assets for a period of time, during which the buyer—under separate agreement—provides management and organizational services aiming for the reorganization of the company. The maximum period for which a sale may be postponed (hereinafter: term) is 10 years, with the specific duration of the term to be specified in the agreement.

(3) After paying the full amount of fees [to the buyer, as stipulated in the separate agreement], the company's ownership share becomes the property of the buyer without having to make an additional payment, or to enter into a separate agreement.

**Paragraph 51.**

(1) Only natural persons shall qualify as a buyers. During the term of the agreement, the buyer shall be entitled to all rights to which members are entitled, except for the right to sell, but the exercise of these rights may be limited or conditioned by the agreement.

(2) In case of several buyers, the legal relationship between the buyers shall be governed by a separate agreement created under civil law.

(3) Public invitations to bid shall be issued for each sale conducted pursuant to this Paragraph.

(4) The value of management and organizational services rendered may be accounted for by the company as an extraordinary investment. The buyer shall use the fees paid to him to make installment payments. If the amount of fees is not sufficient to cover the installment payments, the buyer shall use his own resources to supplement the fees in order to make the installment payments.

**Paragraph 52.**

(1) During the term of the agreement the amount of equity capital, as determined by the financial statement certified by the company's auditor, must not fall below the value specified in the agreement.

(2) To reduce the seller's risk, the buyer shall pledge securities proportionate with the fee, the exact value of

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which shall be specified by the seller as part of the bid, or otherwise.

(3) The seller shall have the right to cancel the agreement with immediate effect, and to enforce his rights concerning the disposal of the securities pledged, if the buyer fails to make installment payments, if the equity capital falls below the value specified in the agreement as per Section (1), or in the absence of a certified financial statement.

(4) In case of cancellation, the buyer shall have no claim for ownership shares against the seller or the company; shall not enforce any other claim, and shall not be refunded any leasing fee already paid.

*Management and Employee Buyout*

**Paragraph 53.**

(1) The leading officials, leading employees (hereinafter: leading employees), and other employees of companies subject to the authority of this Law, may acquire state-owned shares of their companies in the framework of buyouts.

(2) Buyout offers may be submitted by companies or corporations organized under civil law jointly by the leading employees and employees of companies. One or more outside members may also participate in such companies, but the number of voting shares they hold shall not exceed 50 percent of all voting shares until title passes, as specified in Paragraph 54 Section (2).

**Paragraph 54.**

(1) In cases involving management and employee buyouts, the offerors shall commit themselves in their offers to purchase at least 20 percent of the state's share in the company and to make payment in cash within 60 days from the date of consummating the agreement. In such cases, the APV Rt. shall enter into contractual agreements to surrender its voting rights based on the state's entire ownership share for not more than five years, under conditions specified in the agreement.

(2) The agreement specified in Section (1) shall obligate the buyer to purchase additional company shares during the period specified in the agreement, but not exceeding five years, in a manner, at a price, and at an interest rate specified in the agreement. Company shares may be acquired in every case only for cash paid in a single lump sum payment.

(3) The APV Rt. may rescind the agreement with an immediate effect, if the buyer in a buyout transaction gravely violates the provisions of the contract, thus, especially, if he does not satisfy the Section (2) requirement to buy, or if the company's financial position significantly deteriorates as a result of the buyer's activities. A rescission on part of the APV Rt. shall not affect the title to company shares already paid for.

(4) The APV Rt. shall review the company's financial statement annually, and, if necessary, shall engage the services of an independent expert to review the financial statement at the company's expense.

(5) The provisions of Paragraph 21 Section (1) of Law No. XIII. of 1989, and Paragraphs 55-57 of this Law shall not be applied in cases of management and employee buyouts.

*Preferences Related to Employee Property Acquisition*

**Paragraph 55.**

(1) Employees may acquire state property under preferential conditions, when shares of certain companies are sold. Such companies must have been established as a result of transforming state enterprises, or with the majority participation of state enterprises, and include companies established by state enterprises prior to their transformation, or by the legal successors of state enterprises after transformation.

(2) Granting preferences to employees with respect to the purchase of company shares owned by the state may be refused only if the investor who acquires a majority of the shares commits himself in the sale agreement to continue to employ the company's employees and to improve their work conditions, and provides appropriate guarantees to support his commitment.

**Paragraph 56.**

(1) The extent of preference that may be granted to employees pursuant to the rules provided in Paragraph 57 shall amount to 150 percent of the annual minimum wage per employee, so that the value of company shares they acquire in this manner does not exceed 15 percent of the amount of the company's recorded capital.

(2) Those authorized to sell shall uniformly treat the forms of benefits provided individually to employees, or to companies, cooperatives, and MRP organizations established by employees, and shall consider the various kinds of preferences granted jointly.

**Paragraph 57.**

(1) In cases involving preferential employee buyouts initiated by groups of employees, or insofar as not every employee takes part in a given preferential buyout program, the possible extent (amount) of the preference shall be determined by the ratio of the number of

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employees involved as part of the total number of employees in the enterprise. The preference may be granted at a later date to employees not taking advantage of the preference at the time of sale.

(2) A price reduction not exceeding 50 percent of the selling price, and/or an opportunity to pay in installments may be granted to employees. Except when assets are sold in the framework of MRP, to which the provisions of the MRP Law apply, 15 percent of the reduced purchase price payable in installments shall be paid in cash and the term of installments shall not exceed three years. The remainder of the purchase price shall be subject to the payment of interest, and the interest rate to be applied shall be equal to the prevailing interest rate paid after the state's indebtedness.

(3) The par value of stock shall be used as the basis of projection when selling workers' stock. When selling such stock, preferences may be given to an extent not exceeding 90 percent of the par value.

*Small Business ["Existential"] Loans*

**Paragraph 58.**

(1) The proceeds of Small Business loans shall not be used to pay for the buyer's payment obligations announced prior to the sale, incurred in the course of the sale (privatization expenses).

(2) The restriction established in Section (1) shall not apply if an MRP organization is authorized to use Small Business loans pursuant to separate law.

(3) The proceeds of Small Business loans may be used to pay for at most half the amount of the contractual purchase price of assets announced for sale, amounting to not more than Ft50 million regardless of the number of buyers, or the number of sales agreements to be consummated with several buyers for the same property.

(4) If an MRP organization is the buyer, a maximum of 50 percent of the purchase price may be paid from the proceeds of a Small Business loan.

**Paragraph 59.**

(1) Small Business loans may be utilized by private persons who, from the standpoint of foreign exchange rules, qualify as Hungarians, and by companies, corporations organized under civil law, cooperatives—not including savings and loan, housing, and school cooperatives—and associations, all of which must be domiciled in Hungary and must be composed of the above-described private persons;

(a) whose credit rating is acceptable to the lending financial institution; and

(b) who have their own resources required for the purchase.

(2) The same bidder may utilize credit only once every three years.

(3) The property purchased on credit shall not be sold; shall not be used as an in kind contribution to a business organization, or made available in the form of an ancillary service without the concurrence of the lending financial institution, until the loan is paid off.

(4) The government shall decree detailed rules regarding the Small Business loan and related preferential installment payments.

*Employee Part-Ownership Program*

**Paragraph 60.**

(1) Company employees may acquire state-owned shares of the employer companies in an organized form, in the framework of the Employee Part-Ownership Program (MRP).

(2) Employees of a company, whose employment relationship with the company, or with its legal predecessor has existed for at least six months, and who are employed for at least half the number of the legally established work hours, shall be eligible to participate in the MRP. The bylaws of an MRP organization established for the purpose of acquiring property may stipulate a longer period for the required past employment relationship as an eligibility criterion for participating in the MRP, such longer period, however, shall not exceed five years. An employee's right to participate in the MRP shall cease when his employment is terminated.

(3) An employee may participate in only one MRP at any given time. The leading official of the company, its chairman and president and his deputy shall not be members of the managing body of the MRP.

**Paragraph 61.**

(1) MRP organizations are self-governing legal entities with a recorded membership, voluntarily established by employees within their employers' companies for the purpose of acquiring property.

(2) Company shares acquired by an MRP organization become the property of the MRP organization, which, in turn, transfers the shares under the ownership of the participants pursuant to law and to conditions specified in the MRP organization's bylaws.

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## Chapter V.

## PROPERTY MANAGEMENT

*The Temporary Utilization of Assets*

**Paragraph 62.**

(1) The APV Rt. is authorized to enter into property management agreements in order to utilize certain assets, if the sale of these assets has failed, or if a determination is made that conditions for sale are temporarily unfavorable.

(2) The purpose of property management is to retain or attain the value of assets shown in the contract, and to augment assets with the yield of securities (dividends, shares). The APV Rt. shall enter into contractual agreements for property management, as provided for in Paragraphs 64-66.

(3) The contents of contractual agreements may be determined freely by the parties to the contract, in the framework of this law and other legal provisions, along with the mandatory issuance of publicly announced conditions for competitive bidding.

**Paragraph 63.**

(1) The APV Rt. may transfer all or part of the ownership rights to which it is entitled to property managers in the framework of property management agreements.

(2) Performance on commitments made by property managers as part of property management agreements shall be secured by ancillary obligations encumbering the property managers' own assets (e.g., lien, caution money, readily negotiable collateral). Several security measures may be imposed jointly.

(3) No property management agreement shall be entered into with persons against whom liquidation proceedings are in progress, or who owe taxes, customs duties, or social security contributions.

*Types of Property Management Contracts*

**Paragraph 64.**

(1) To preserve the value and condition of assets, the APV Rt. is authorized to enter into agreements on the basis of which commission is paid for the utilization of property.

(2) Under such agreements consummated by the APV Rt. and a property manager, the property manager is entitled to receive a certain part of the return on property, in addition to fees.

(3) Civil Code of Laws provisions concerning commission agreements shall be appropriately applied to these contracts.

**Paragraph 65.**

(1) In entrepreneurial agreements for the management of property, the party contracting with the APV Rt. (hereinafter: entrepreneur) agrees to exercise the rights of the owner over the property pursuant to the agreement for a fee, except for the right to sell or encumber; the entrepreneur agrees to produce a predetermined return (dividends, shares) and commits himself to maintain or attain a predetermined level of property value.

(2) The APV Rt. and the entrepreneur may also agree that the APV Rt. yields a certain portion of the return to the entrepreneur; this possibility, however, must be referred to as part of the conditions stated in both the invitation to bid and the contractual agreement.

(3) Civil Code of Laws provisions concerning entrepreneurial agreements shall be appropriately applied to these contracts.

**Paragraph 66.**

(1) In portfolio property management agreements the party contracting with the APV Rt. agrees to exercise the rights of the owner over the property for a fee, including the right to sell the property, and commits himself to attain a certain return on, or appreciation of the value of property. As part of this commitment, the contractual agreement may call for the payment of a certain amount of cash, or for the acquisition of membership rights in some other company.

(2) The APV Rt. and the contracting party may agree on sharing the increment attained in the value of the property; this possibility, however, must be referred to as part of the conditions stated in both the invitations to bid and the contractual agreement.

(3) Civil Code of Laws provisions concerning entrepreneurial agreements shall be appropriately applied to these contracts.

*Common Rules for Property Management*

**Paragraph 67.**

(1) The property manager shall perform his contractual obligations and account for his actions to the APV Rt. with a high level of professionalism.

(2) Whenever the APV Rt. transfers the rights of the owner with respect to assets, it shall monitor the activities of the property manager on a regular basis. As part of monitoring the activities of the property manager,

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the APV Rt. may require the contractor to report, to submit detailed written reports in predetermined time intervals, and to provide financial accounting regarding every contract which exceeds the value of the managed property by a certain percentage stipulated in the property management agreement. The APV Rt. shall also have a right to examine the creditworthiness of the contractor, and to have access to the property manager's files.

(3) The APV Rt. has a right to cancel the contract with immediate effect, if the property manager gravely violates the contract, or if he hinders the APV Rt.'s monitoring activities.

(4) The APV Rt. shall establish and enforce requirements to appropriately protect assets in companies in which the majority of the shares is owned by the state.

**Paragraph 68.**

(1) Property managers shall account for the fees paid by APV Rt. as sales revenues, and costs incurred in conjunction with property management as expenses.

(2) Property management agreements may stipulate that the property manager is entitled to his fees only if he attains the results stipulated in the agreement. This provision shall not be applied with respect to reimbursing expenditures incurred in conjunction with property management.

(3) At any time during the life of the property management agreement, the property manager may propose to purchase from the APV Rt. the company share he manages.

*Privatization Based on Property Management Agreements*

**Paragraph 69.**

(1) Property management agreements may also stipulate that after at least two years, the property manager

(a) may buy the property by unilaterally issuing a written statement to that effect, or that

(b) the property manager is obligated to buy the property upon written notice by the organ exercising the rights of the state as the owner.

(2) The worth of the state's share (the method and conditions of calculating such worth) shall be determined in the framework of an agreement between the parties to the contract, by appropriately applying the provisions of Chapters III. and IV.

## Chapter VI.

## CLOSING PROVISIONS

*Temporary Provisions*

**Paragraph 70.**

(1) References in legal provisions to the State Property Agency or to the State Property Management Corporation shall be understood to mean the State Privatization and Property Management Corporation.

(2) State enterprises subject to the authority of this Law, which have not been converted into companies as of the effective date of this Law, shall continue to apply the provisions of Paragraphs 20-29 and 32-48 of Law No. LVI. of 1992 with respect to their transformation and the protection of state assets at the enterprises.

(3) Public utility enterprises (Paragraphs 45-46/A of Law No. VI. of 1977—hereinafter: Vt.) which have not been converted into companies as of the effective date of this Law, may continue to operate as state enterprises, except for the fact that the founders' rights specified in the Vt. regarding these enterprises shall be exercised by the minister having jurisdiction—consistent with the basic function of the enterprise—and by the interested local government.

(4) Companies which have invited bids for the sale of company shares prior to the effective date of this law, shall judge competing bids pursuant to legal provisions in effect when the invitation was issued. In applying the provisions of Paragraph 28 Sections (1) and (2) of this Law, invitations to bid issued prior to the effective date of this Law shall also be considered.

(5) Assets specified in Paragraph 5 Section (2) of this Law shall qualify as assets specified in Paragraph 104 Section (3) Subsection (c) of Law No. XXXVIII. of 1992 on the state household.

(6) In contrast to the APV Rt.'s equity capital (recorded capital, capital reserves), assets assigned to the APV Rt. pursuant to Paragraph 5 Section (1) of this Law representing value in the books of the APV Rt. (stock, business shares, real property, etc.), shall be stricken from the APV Rt.'s books, and the articles of incorporation shall be adjusted accordingly.

(7) Within 30 days from the effective date of this Law, the government shall change the articles of incorporation of the State Property Management Corporation, established pursuant to Law No. LIII. of 1992.

(8) The APV Rt's equity capital (recorded capital, capital reserves) shall be increased by the recorded value of assets transferred from the State Property

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Agency, whose operations are discontinued by virtue of Paragraph 10 of this Law. These assets are related to the earlier functioning of the State Property Agency. The APV Rt.'s articles of incorporation shall be amended accordingly.

(9) The minister of finance shall exercise the rights of the owner with respect to the state-owned stock of financial institutions which participate in the bank consolidation program as of the effective date of this Law. The management and sale of the stock of state-owned financial institutions shall be performed by the APV Rt. in agreement with the finance minister.

(10) If the capital stock of the APV Rt. is reduced, claims against the APV Rt. shall be regarded as secured in the context of Paragraph 312 of Law No. VI. of 1988.

(11) A resolution brought by the general meeting of the APV Rt. reducing the APV Rt.'s capital stock shall be published by the board of directors in the official gazette twice, with at least 15 days between the two publications. Upon verifying the publication of the reduction of capital stock, the Court of Registration enters, upon request, a statement in the register of firms concerning the reduction of capital stock.

(12) The deadline for reducing the APV Rt.'s capital stock is 18 months after the effective date of this law.

**Paragraph 71.**

(1) In cases involving enterprises converted pursuant to Law No. XIII. of 1989, the APV Rt. shall pay the company 20 percent of the purchase price pursuant to Paragraph 21 Section (1) of this Law, unless otherwise provided for by law. The APV Rt. shall act the same way when applying the provisions of Paragraph 21 Section (2) of this Law, by transferring company shares to local governments after land within municipal boundaries, and shares specified in Paragraph 42 of Law No. LIV. of 1992.

(2) After the effective date of this Law, the Treasury Assets Management Agency shall transfer to the APV Rt. the entrepreneurial assets it handles, as well as the share of state subsidy provided for in Law No. CIV. of 1994 concerning the budget of the Hungarian Republic, appropriated for the safeguarding, protection and maintenance of the entrepreneurial assets to be transferred, prorated so as to be consistent with the assets transferred, and the time of the transfer. The finance minister shall take action to discontinue the Treasury Assets Management Agency, and to provide for its legal succession. Requirements contained in separate law shall apply to treasury assets.

**Paragraph 72.**

(1) Company shares, which, according to the Appendix to this Law are not subject to the APV Rt.'s authority, shall be transferred to the organization designated in the Appendix within 30 days from the effective date of this Law.

(2) Ownership rights to which the APV Rt. is entitled pursuant to this Law, but which are exercised by other organizations—in addition to the legal predecessor—on the effective date of this Law, shall be transferred to the APV Rt. within 30 days from the effective date of this Law.

**Paragraph 73.**

The APV Rt.'s exercise of ownership rights based on this Law in regard to state-owned real property shall also include the rights of the property manager.

**Paragraph 74.**

(1) Paragraph 11 of Law No. XVIII. of 1991 on accounting practices is hereby amended by adding the following Section (4), and replacing the present Section (4) with the following Section (5):

"Paragraph 11.

"(4) A government decree shall provide rules for the APV Rt's accounting practices, and for the peculiar features of preparing the APV Rt.'s annual report.

"(5) In regard to organs specified in Sections (1)-(4), the government decree shall not establish requirements that differ from the basic principles of this law, or obligations to provide parallel information."

(2) The last sentence of Paragraph 71 Section (1) of Law No. XVIII. of 1991 on accounting practices is hereby amended to read as follows:

"Paragraph 71.

"(1) From the standpoint of the State Privatization and Property Management Corporation, the deadline for depositing shall be the 31st day of August of the year after the year under review."

(3) Paragraph 94 of Law No. XVIII. of 1991 on accounting practices is hereby amended by adding the following new Subsection (e):

"Paragraph 94.

"(e) The peculiar features of the APV Rt.'s accounting practices and preparation of its annual report."

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**Paragraph 75.**

Paragraph 11 of Law No. XXXIII. of 1990 concerning the legal status of state secretaries is hereby amended by adding the following Section (2), and at the same time, by designating the present Sections (2)-(3) as Sections (3)-(4):

"(2) The provisions of Section (1), insofar as administrative state secretaries and deputy state secretaries are concerned, shall not be applied to members of the State Privatization and Property Management Corporation board of directors."

**Paragraph 76.**

(1) Products sold, and services rendered by the APV Rt. pursuant to this Law shall be exempt from general sales taxes.

(2) The APV Rt. is exempt from the payment of corporate taxes, and has no obligation to pay taxes pursuant to the provisions of Law No LXXXVI. of 1991, as amended.

*Enactment*

**Paragraph 77.**

(1) This Law shall take effect 30 days after its proclamation.

(2) When this Law takes effect, the following laws and legal provisions shall lose force: Law No. LIII. of 1992 on the management and utilization of entrepreneurial assets to remain under state ownership in the long term; and further, in due regard to the provisions of Paragraph 76 Section (2), Law No. LIV. of 1992 on the sale, utilization, and safeguarding of assets under temporary state ownership, as well as related amendments contained in Paragraph 79 Section (1) of Law No. LXXIV. of 1992; Paragraph 2 of Law No LIV. of 1993; Law No. LXVIII. of 1993; Paragraph 41 Section (1) Subsection (g) of Law No. XCII. of 1993; and Paragraph 67 of Law No. CXI. of 1993; Paragraph 5 Section (1) and Paragraph 10 Sections (3) and (5) of Law No. LV. of 1992 amending legal provisions related to laws concerning the state's entrepreneurial property; and Paragraph 10 Section (1) Subsection (d) of Law No. LXXXVI. of 1991 on corporate taxes, as amended, and the partial text "and (d)" in Paragraph 6 of Law No. LXXXIII. of 1993 amending said provision.

(3) When this Law takes effect, the following decrees shall lose force: Government Decree No. 126. of 28 August 1992 concerning companies to remain fully or partly under state ownership in the long term, as well as amendments thereto, specifically, Government Decree No. 81. of 19 May 1993, Government Decree No. 160. of 12 November 1993, Government Decree No. 185. of 31 December 1993, Government Decree No. 76. of 17 May 1994, and Government Decree No. 103 of 29 June 1994.

(4) The government is hereby authorized to publicly announce technical changes (e.g. change of name) related to companies enumerated in the Appendix.

**Paragraph 78.**

Paragraph 5 Section (1) Subsection (c) of Law No. XCIII. of 1991 concerning the payment of fees is hereby amended by adding the following text:

"(c) ... as well as the State Privatization and Property Management Corporation."

[In lieu of signature:] Arpad Goncz—President of the Republic

[In lieu of signature:] Dr. Zoltan Gal—President of the National Assembly

**APPENDIX**

*to Law No. XXXIX of 1995*

The following list contains the names of companies operating with long-term state ownership shares and indicates the ratio of state ownership, and the organs exercising the state's rights as a member (stockholder).

| Name of Company | Lowest Ratio of Long-Term State Share |
|---|---|
| —Organ Exercising the Owner's Rights: | |
| —STATE PRIVATIZATION AND PROPERTY MANAGEMENT CORPORATION | |
| Hungarian Electric Works Corporation | 50 percent + one vote |
| MOL, Hungarian Oil and Gas Industry Corporation | 25 percent + one vote |
| MAHART, Hungarian Maritime Shipping Corporation | 50 percent + one vote |
| Hungarian Air Transportation Corporation (MALEV) | 25 percent + one vote |

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| Name of Company | Lowest Ratio of Long-Term State Share |
|---|---|
| Hungarian Telecommunication Corporation | 25 percent + one vote |
| Antenna Hungarian Broadcasting and Radio News Corporation | 25 percent + one vote |
| Hungarian Investment and Development Bank Corporation | 25 percent + one vote |
| CD Hungary Real Estate Sales and Services Corporation | 50 percent + one vote |
| National Savings and Commercial Bank Corporation | 25 percent + one vote |
| National Electric Long Lines Corporation | 50 percent + one vote |
| Paks Nuclear Power Plant Corporation | 50 percent + one vote |
| National Textbook Publishing Corporation | 50 percent + one vote |
| ALKALOIDA Chemical Corporation | 25 percent + one vote |
| Balaton Highlands Forest and Lumber Processing Corporation | 100 percent |
| Southern Plains Forestry Corporation | 100 percent |
| Northern Hungary Forest Management Corporation | 100 percent |
| Gemenc Forest and Game Farm Corporation | 100 percent |
| "Gyulaj" Forestry and Hunting Corporation | 100 percent |
| Ipoly Forest Corporation | 100 percent |
| Small Plains Forest Farm Corporation | 100 percent |
| Kiskunsag Forestry and Lumber Corporation | 100 percent |
| Matra-Nyugatbukk Forest and Lumber Processing Corporation | 100 percent |
| Mecsek Forestry Corporation | 100 percent |
| Nagykunsag Forestry and Lumber Corporation | 100 percent |
| Nyirseg Forestry Corporation | 100 percent |
| Pilis Forest Park Farm Corporation | 100 percent |
| Somogy Forestry and Lumber Corporation | 100 percent |
| Szombathely Forestry Corporation | 100 percent |
| Educational Forest Farm Corporation | 100 percent |
| VADEX, Mezofold Forest and Game Farm Corporation | 100 percent |
| Vertes Forestry and Lumber Corporation | 100 percent |
| Zala Forestry and Lumber Corporation | 100 percent |
| Martonseed Experimental Agricultural Farm Corporation of Martonvasar | 50 percent + one vote |
| Boly Agricultural Production and Commercial Corporation | 75 percent |
| Dalmad Agricultural Corporation | 75 percent |
| Southern Pest County Agricultural Corporation | 75 percent |
| Enying Agrar Corporation | 75 percent |
| Hidashat Agricultural Corporation | 75 percent |
| Hod-Mezogazda Corporation | 75 percent |
| Lajta-Hansag Corporation | 75 percent |

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| Name of Company | Lowest Ratio of Long-Term State Share |
|---|---|
| Mezofalva Agricultural Production and Service Corporation | 75 percent |
| Mezohegyes State Stud Farm Corporation | 75 percent |
| Szombathely Educational Farm Corporation | 75 percent |
| Torokszentmiklos Agricultural Corporation | 75 percent |
| Babolna Agricultural Production, Development, and Commercial Corporation | 50 percent + one vote |
| Labod-Mavad Corporation | 50 percent + one vote |
| Hortobagy Fisheries Corporation | 25 percent + one vote |
| | |
| Agroprodukt Agricultural Production and Sales Corporation | 75 percent |
| Alcsisziget Agricultural Corporation | 75 percent |
| Balaton Fisheries Corporation | 75 percent |
| Godollo Educational Farm Corporation | 75 percent |
| Lake Ferto Cane Farm Corporation | 75 percent |
| Herceghalom Experimental Farm Corporation | 75 percent |
| Komarom Agricultural Corporation | 75 percent |
| Sarvar Agricultural Corporation | 75 percent |
| Szarvas Agricultural Production and Food Processing Corporation | 75 percent |
| Szerencs Agricultural Corporation | 75 percent |
| Abauj Charolais Agricultural Corporation | 75 percent |
| Tokaj Commercial Establishment Corporation | 100 percent |
| Bacsalmas Agricultural Industry Corporation | 25 percent + one vote |
| | |
| VOLANBUSZ Corporation | 50 percent + one vote |
| Agria Volan Corporation | 50 percent + one vote |
| Ajka Volan Limited | 50 percent + one vote |
| Alba Volan Corporation | 50 percent + one vote |
| Bacs Volan Corporation | 50 percent + one vote |
| Balaton Volan Corporation | 50 percent + one vote |
| Balatonfured Volan Limited | 50 percent + one vote |
| Borsod Volan Corporation | 50 percent + one vote |
| Dudar Volan Limited | 50 percent + one vote |
| Gemenc Volan Corporation | 50 percent + one vote |
| Hajdu Volan Corporation | 50 percent + one vote |
| Hatvan Volan Corporation | 50 percent + one vote |
| Jaszkun Volan Corporation | 50 percent + one vote |
| Kapos Volan Corporation | 50 percent + one vote |

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| Name of Company | Lowest Ratio of Long-Term State Share |
|---|---|
| Kisalfold Volan Corporation | 50 percent + one vote |
| Koros Volan Corporation | 50 percent + one vote |
| Kunsag Volan Corporation | 50 percent + one vote |
| Matra Volan Corporation | 50 percent + one vote |
| Nograd Volan Corporation | 50 percent + one vote |
| Pannon Volan Corporation | 50 percent + one vote |
| Papa Volan Limited | 50 percent + one vote |
| Sumeg Volan Limited | 50 percent + one vote |
| Szabolcs Volan Corporation | 50 percent + one vote |
| Tapolca Volan Limited | 50 percent + one vote |
| Tisza Volan Corporation | 50 percent + one vote |
| Varpalota Volan Limited | 50 percent + one vote |
| Vas Volan Corporation | 50 percent + one vote |
| Vertes Volan Corporation | 50 percent + one vote |
| Zala Volan Corporation | 50 percent + one vote |
| | |
| Hungaropharma Corporation | 50 percent + one vote |
| Therapeutic Accessories and Rehabilitative Products Manufacturing Corporation | 50 percent + one vote |
| —Organ Exercising the Owner's Rights: | |
| —MINISTER OF TRANSPORTATION, COMMUNICATIONS, AND WATER RESOURCE MANAGEMENT | |
| Hungarian State Railroads Corporation | 100 percent |
| Hungarian Postal Service Corporation | 100 percent |
| Ferto Area Local Transportation Corporation | 25 percent + one vote |
| Gyor-Sopron Ebenfurt Railroad Corporation | 50 percent + one vote |
| Transportation Scientific Institute (KTI Corporation) | 50 percent + one vote |
| Water Resource Management Scientific Research Corporation (VITUKI) | 50 percent + one vote |
| Waterworks Along the Danube Corporation | 50 percent + one vote |
| Transdanubian Waterworks Corporation | 50 percent + one vote |
| Northern Transdanubian Waterworks Corporation | 50 percent + one vote |
| Northern Hungary Waterworks Corporation | 50 percent + one vote |
| Waterworks Along the Tisza River Corporation | 50 percent + one vote |
| —Organ Exercising the Owner's Rights: | |
| —MINISTER OF INDUSTRY AND COMMERCE | |
| Automotive Industry Research and Development Corporation | 50 percent + one vote |
| Leather and Shoe Industry Research and Development Institute Corporation | 50 percent + one vote |
| Architectural Science Institute Limited (ETI) | 50 percent + one vote |

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| Name of Company | Lowest Ratio of Long-Term State Share |
|---|---|
| Construction Quality Control Institute Corporation | 50 percent + one vote |
| HUNGEXPO Fairs and Advertising Corporation | 25 percent + one vote |
| INOVATEXT Textile Industry Technical Development Corporation | 50 percent + one vote |
| Industrial Technology Centrum Limited | 50 percent + one vote |
| Hungarian Investment and Commerce Development Corporation | 50 percent + one vote |
| Measurement Technology Information Research and Innovation Corporation | 50 percent + one vote |
| MERTCONTROL Quality Control Corporation | 25 percent + one vote |
| Agricultural Machinery Development Industrial Corporation | 50 percent + one vote |
| Synthetics Research and Development Limited | 50 percent + one vote |
| Telecommunication Research Institute Innovation Corporation | 50 percent + one vote |
| Technika Foreign Trade Corporation | 50 percent + one vote |
| Heating Technology Research and Development Corporation (TUKI Corporation) | 50 percent + one vote |
| Electric Energy Industry Research Institute Corporation | 50 percent + one vote |
| —Organ Exercising the Owner's Rights: | |
| —MINISTER OF AGRICULTURE | |
| Agroster Radiation Corporation | 50 percent + one vote |
| Animal Breeding Performance Examining Limited | 100 percent |
| Cartographia Limited | 50 percent + one vote |
| Concordia Public Warehouse Corporation | 50 percent + one vote |
| Wood Industry Research Institute Limited | 100 percent |
| Protein Processing Corporation | 25 percent + one vote |
| Geodetic and Cartographic Corporation | 25 percent + one vote |
| Fruit and Decorative Plant Growing Research and Development Corporation | 100 percent |
| Canning Industry Research, Development and Quality Control Limited | 100 percent |
| Hungarian Dairy Industry Experimenting Institute Limited | 100 percent |
| Milling Industry Research and Development Limited | 100 percent |
| National Meat Industry Research Institute Corporation | 100 percent |
| National Artificial Fertilization Corporation | 100 percent |
| Pecs Geodetic and Cartographic Limited | 25 percent + one vote |
| Tempered Water Fish Spawning and Commercial Limited | 50 percent + one vote |
| Vegetable Growing Research Institute Corporation | 100 percent |
| —Organ Exercising the Owner's Rights: | |
| —MINISTER OF ENVIRONMENTAL PROTECTION AND REGIONAL DEVELOPMENT | |
| Hortobagy Nature Protection and Gene Preservation Limited | 100 percent |
| Urban Construction Scientific and Development Institute Corporation | 50 percent + one vote |
| —Organ Exercising the Owner's Rights: | |

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| Name of Company | Lowest Ratio of Long-Term State Share |
|---|---|
| —MINISTER OF FINANCE | |
| Eximbank Corporation | 100 percent |
| Export Credit Insurance Corporation | 100 percent |
| Credit Guarantee Corporation | 50 percent + one vote |
| Gambling Corporation | 100 percent |
| Reorg Corporation | 50 percent + one vote |
| —Organ Exercising the Owner's Rights: | |
| —MINISTER OF DEFENSE | |
| HM [Ministry of Defense] ARCOM Communication Technology Corporation | 50 percent + one vote |
| HM ARZENAL Electro-Mechanical Corporation | 50 percent + one vote |
| HM Budapest Forest Management Corporation | 50 percent + one vote |
| HM CENTRAL Laundries Corporation | 50 percent + one vote |
| HM CURRUS Godollo Combat Vehicle Technology Corporation | 50 percent + one vote |
| HM Electronics Directorate Corporation | 50 percent + one vote |
| HM Kaszo Forest Management Corporation | 50 percent + one vote |
| HM Radar Radio Technology Corporation | 50 percent + one vote |
| HM Veszprem Forest Management Corporation | 50 percent + one vote |
| —Organ Exercising the Owner's Rights: | |
| —MINISTER OF JUSTICE | |
| National Translation and Translation Authentication Office Corporation | 50 percent + one vote |
| —Organ Exercising the Owner's Rights: | |
| —MINISTER OF CULTURE AND PUBLIC EDUCATION | |
| Buda Castle Palace Investment and Service Limited | 25 percent + one vote |
| Library Supplies Limited | 25 percent + one vote |
| —Organ Exercising the Owner's Rights: | |
| —MINISTER OF THE INTERIOR | |
| Sports Facilities Enterprise Corporation | 75 percent |
| —Organ Exercising the Owner's Rights: | |
| —OFFICE OF THE PRIME MINISTER | |
| KOPINT DATORG Organization and Data Processing Corporation | 25 percent + one vote |
| Gazette and Newspaper Publishing Limited | 100 percent |

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## Privatization Strategy

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["The Privatization Strategy of the Government of the Hungarian Republic—1994-98"]

[FBIS Translated Text]

### 1. Introduction

In the spirit of the program proclaimed by the Government of the Hungarian Republic and of the Coalition Agreement between the Hungarian Socialist Party and the Alliance of Free Democrats which served as the foundation for the program, the government intends to pursue an economic policy which will accelerate private sector development. Consistent with this intent, the government plans to accelerate the privatization process, improve conditions for attracting foreign and domestic capital, and develop the money and the capital markets. Change of ownership must take place in a manner consistent with market principles also in the future. Cash sales must be preferred; buyouts coupled with increased capital, which result in improvements in given companies and which, in the subsequent phase, provide better opportunities for the issuance of publicly traded stock, must be permitted.

Economic laws that took force beginning in 1988 have already established the foundations of privatization in Hungary. The Antall and Boross governments continued in this direction beginning in 1990, but not at an appropriate pace and not with appropriate consistency. The fact is that privatization did not produce as much improvement in efficiency as was necessary and possible, and it is beyond dispute that the public view of privatization has become substantially more hostile during the past four years than it had been before.

Numerical data proves that almost 50 percent of the productive assets owned by the state have been privatized during the past four years. Most transactions were initiated by persons active in the marketplace, potential investors and persons interested in buying out firms, and by the leaders of state-owned firms. As a result of these efforts, units which had already been functioning under favorable market conditions were privatized. Thus, the companies that remained under state ownership were the ones deemed to be important from the standpoint of the national economy or declared by law to be of "strategic" significance, as well as other units of the economy for which no interest was manifested in the marketplace, or if there was such manifestation, the interest was deflected by the managers of these units.

Columns of statistical data on privatization convincingly prove that the efficiency of productive assets is substantially greater in companies in which private stockholders own a majority of the shares, than in business organizations managed by the state. Private companies were able to increase their assets in a period when the assets of state organizations significantly decreased; if viewed in proportion to the value of corporate assets owned, the volume of liabilities incurred by companies in which private owners exercised majority control remained far below the volume of debts incurred by the state sphere; the per employee production and cost efficiency indexes in companies under private management were better than in enterprises managed by the state; and the work force retention capability of private firms was better than that of enterprises managed by the state.

The fact that progress can no longer be made by using the methods of the past four years is clearly indicated. Due to prolonged privatization processes, the state's assets have significantly depreciated during the past six years. Excessively centralized privatization, the total cessation of enterprise independence guarantees established beginning in 1968, and the implementation of privatization processes above the heads of enterprises—influenced by political and other uncontrollable considerations—have swept the managements of enterprises into a state of long-term uncertainty. For this reason, the pursuit of long-term development strategies was placed on the back burner in the majority of the enterprises, and short-term interests, the exhaustion of enterprise assets became the characteristic features of enterprise management. (According to internationally renowned, recognized consulting organizations, each month of delay in the Hungarian privatization process produces a loss of about 6 billion forints [Ft] to the national economy.)

The experience of the past several years also proved that the state had no realistic chance to upgrade and thereafter sell the enterprises. Even when the state exercised its prerogatives as the owner in a corporate legal setting—acting with far more force than it did traditionally, [under communist rule]—it was only able to halt unfavorable processes, but was unable to enforce a kind of dynamic conduct on part of the enterprises that flexibly adapts itself to the new requirements established by the marketplace. Accordingly, it would be more appropriate for the state to assign the task of upgrading the enterprises on the basis of business proposals submitted by management organizations with expertise in the marketplace, which are materially interested in the successful performance of their work.

Privatization can be accelerated and its favorable effects can be enforced on a broad base only as a result of large-

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scale capital influx, one that could be accompanied by an additional, significant foreign acquisition of Hungarian assets under the given circumstances. It is in our fundamental interest that foreign involvement resulting in a significant capital injection, technological renewal, and the gaining of export markets continues in the form of privatization, but so that we avoid the damaging side effects of privatization.

Progress in privatization was accompanied by an increased role to be played by the money and capital markets. Development of the securities market is definitely an important path for the acceleration of privatization. An important objective we must attain in the privatization process is that investors already active in the same field elsewhere [hereinafter: active investors] be followed by a large number of Hungarian as well as foreign institutional and financial investors. Their involvement is favorable not only because it fuels sophisticated demand in the market place that prompts additional increases in efficiency, but also because it permits the involvement of masses of Hungarian small investors due to the large increase in the liquidity of securities.

The 1994-98 privatization strategy of the Government of the Hungarian Republic is based on four equally important priorities:

- Privatization must serve the following purposes: long-term economic policy, establishment of a foundation for economic growth, and protection and creation of work places.
- Privatization must be realized based on market conditions, in due regard to supply and demand, but it is our goal to accelerate the change in ownership as much as possible within these considerations.
- Privatization must increase management efficiency, including the availability of appropriate amounts of capital.
- The scope of state property to be privatized must be expanded.

What remains to be done in privatization presents a greater task than what has already been accomplished in the course of the past several years. For objective reasons—a detailed analysis of which is contained in Appendix I. [not included]—the state's assets erode day after day, in a physical sense, too. In enterprises of high value, which could be regarded as having strategic importance from the standpoint of the national economy, the ability to produce profits has steeply declined during the past two years, while in medium size enterprises, the process is pointing in the direction of mass bankruptcies (see Appendix II. [not included]). For this reason the government believes that it would not be appropriate to cease striving for the earliest possible completion of the bulk of privatization. To the contrary: the longer we delay privatization, the worse the conditions get.

**2. Basic Principles of the New Privatization Law**

(1) The establishment of uniform conditions for the management of state assets necessitates the organizing of tasks related to the ownership of state assets in the framework of a streamlined system of views.

The finance minister, on behalf of the government, exercises the prerogatives of an owner over state assets. Based on this authority, the finance minister transfers his authority to manage and sell part of the state's assets—the so-called entrepreneurial property—to the new property management and privatization organization to be established by the privatization law.

Entrepreneurial property is the main subject of the privatization law, property that has come under the ownership of the state during the past four decades, but for which continued maintenance of state ownership is no longer warranted due to the changed circumstances. The property designated by the law, however, covers only part of the property elements temporarily owned by the state, to be transferred to the new privatization organization. For this reason, provisions concerning treasury property must also be provided for in laws governing the state household and treasury property.

(2) Decisions as to the types of activities and corporations in which the government wishes to reserve the right to interfere in substantive matters must be expressed in much clearer terms than before. As much as possible, the state should abstain from creating situations in which it is forced to continuously bargain with a strong active investor regarding the day-to-day affairs of the enterprise or its management, regardless of whether the state is a majority or a minority stockholder.

The law must identify and itemize each piece of property that is slated to remain wholly or partly owned by the government, as well as the extent of government ownership ("long-term state property"). This approach to establishing rules conveys the sense that the state's ownership share in business organizations not enumerated in the appendix to the law may be privatized without any restriction.

(3) It has been proven in the course of the past four years that privatization in exchange for consideration is a fundamentally appropriate method, and no major change in direction is warranted in this regard. The government does not contemplate the future discontinuance of the demand-augmenting technique used since 1990, but the technique will be used in a substantially more

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targeted fashion, and only in regard to a well-defined category of property. We must endeavor to privatize every enterprise primarily in exchange for cash, in cases where this is justified and appropriate. Cash sales are of outstanding importance not only because such sales could serve as the simplest method to reduce the state's indebtedness, but also because buying for cash expresses the buyers sense of responsibility, a kind of expression for which there is no substitute. Quite naturally, the price to be paid is not the exclusive consideration to be observed: the future owner's commitments regarding development, market acquisition, as well as employment and environmental policies are also important. Payment techniques other than cash must be continued to be used in a comprehensive manner when selling enterprises, if consummation of the sale hinges on the acceptance of payment in a form other than cash, or when employee ownership acquisition appropriately ensures the future of the enterprise.

(4) The government recognizes its duty to perform on its obligations to transfer property free of charge to persons whose claim is based on compensation, and to local social insurance administration boards. These obligations, however, must be performed in a manner (without artificially deteriorating the situation of the beneficiaries) that they disturb sales to the least possible extent, and that the burden is tolerable from the standpoint of economic consolidation.

(5) The protection of trade marks used in conjunction with products that are part and parcel of the Hungarian national image must also be ensured in the course of future privatization. The most appropriate way to do so is to enforce the Hungarian state's rights specified in stockholder agreements.

(6) In due regard to the large number of conflicts of interest that surround the transfer of state property to private hands, privatization transactions must be performed in the framework of competitive bidding, open to the public. Exemption from under the requirement to invite competitive bids should be granted only pursuant to law, and only if such exemptions are justified from the standpoint of the economy (e.g., compensation). As a general principle, the requirement to invite competitive bids also applies to organizations acting on behalf of the privatization organization.

The order of issuing, administrating, and judging tender bids must be modernized and new regulations must be issued. Commitments made by bidders must be itemized and entered into each sale agreement, and provisions must be made to provide legal guarantees for accountability.

(7) In order to strengthen the Hungarian economy and the enterprise sphere it is necessary to develop the capital market, thereby broadening the choice of financial sources available to enterprises. The capital market must be based to a significant extent on Hungarian private and institutional investors. One of the most important arguments supportive of the need to attract Hungarian private investors is that their participation creates supplemental demand and intensifies competition for shares of stock sold. In this regard, changes in the tax system providing benefits after investments conditioned by results, as well as preferential payment terms and price concessions to small investors have special significance. These benefits, preferences and concessions must be applied when stock is publicly introduced at the stock exchange.

The appropriate endeavor in every new transaction involving the sale of stock should be participation by both foreign and Hungarian investors, resulting in an ownership structure that is best from the standpoint of the corporation whose stock is sold.

In the present phase of privatization an increasing opportunity exists to sell whatever shares remain in a number of firms in which the state is part owner, and which have already become marketable at the stock exchange due to the involvement and upgrading efforts of foreign strategic investors. Doing so is also appropriate, because in this phase these shares of stock can be sold at higher prices than before.

(8) Privatization affects a large number of employees. For this reason, privatization requires detailed rules and a highly controlled decisionmaking mechanism. The government will continue to endeavor to learn about employee interests, and to consider these in the decisionmaking process. The principles and practice of how to involve interest groups, how to learn about and how to consider their views must be incorporated in detail in the privatization law to be adopted. As compared to previous practice under law, the opportunity to represent employee interests should, under no circumstance, be narrowed.

The government intends to rely to a greater extent than before on company management and employee familiarity with the situation and with the market. In the absence of a prospective buyer willing to pay cash, the government intends to enable the managements and/or employees of companies which have a small pecuniary value, to purchase these companies.

(9) The government recognizes the fundamental importance of the need to conduct privatization proceedings in the open, and that the related processes be transparent and controlled. The process as a whole must guar-

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antee the openness and transparency of privatization. Control is exercised in the framework of a three-tiered system. The most important control function is the one performed by the National Assembly. It consists of the establishment of the privatization investigation committee, and of participation by the future supervisory committee. Second, the comprehensive audit function of the State Auditor General's Office [ASZ], with periodic reports to the National Assembly, is indispensable. Third, an opportunity must be established for the government, or for the minister exercising the prerogatives of the owner, to perform audit functions, as necessary. Respect for procedural rules—once adopted—(SZMSZ [organizational and operating rules], rules for competitive bidding), continuous control over the circumstances attending various decisions by bodies enjoying the public trust, and regular reports to the public by these bodies concerning their findings, must, by all means, be ensured.

(10) Privatization to be implemented pursuant to the above principles requires a flexible executive organization capable of reconciling economic rationale with social expectations. Under present circumstances an institution operating as a corporation would provide a chance for the proper implementation of privatization. Relative independence implicit in the corporate form of operation must be offset by continuous state and social control. The law itself specifies the basic political principles of privatization, and the kinds of benefits that may be provided.

### 3. The New Privatization Organization

The institutional system involved in property management and privatization today is unnecessarily fragmented and difficult to review, and incurs significant excess expenditures. For this reason:

— the State Property Management Corporation (AV Rt.),

— the State Property Agency (AVU),

— the Treasury Assets Management Agency (KVSZ), as well as

— all corporations and other property which are part of the state's entrepreneurial assets must be placed under the authority of a single institution.

The government is submitting a new unified privatization law to the National Assembly in November 1994. The new privatization law determines the legal status, organizational form, and operating system of the State Privatization and Property Management Corporation (hereinafter: APV Rt.) to be established. The essence of the new Corporation is that assets owned so far by the AV Rt. would remain part of the assets of the Corporation, while AVU and KVSZ assets would continue to be managed and sold on a consignment basis.

The primary function of APV Rt. is to sell to private owners shares of stock, business shares, other pieces of property, and rights having a pecuniary value it receives, in due regard to obligations that burden these assets. In other words: The APV Rt. is engaged fundamentally in preparing for sale and selling assets owned by the state.

As property manager, the APV Rt. is responsible for the assets entrusted to it. As part of its property management activity, the APV Rt. exercises all prerogatives of the owner needed for the preservation and sale of the assets. The APV Rt. is not at liberty to make decisions regarding dividends, because the amount of dividends to be paid to the state must be determined pursuant to general dividend policy principles approved by the government—based on the annual profit and loss statements of the enterprises managed by the APV Rt.—and must be paid in to the central budget as specified in the budget law.

Clear-cut requirements and accountability criteria must be established for the APV Rt. and, in exceptional cases, for other property managers, regarding the preservation and augmentation of assets, the preparation of assets for the most efficient and effective sale, and privatization consistent with market conditions. Uniform rules for the protection of property must continue to be enforced.

A separate law will govern the operation and management of traditional treasury assets.

It is the duty and prerogative of the APV Rt. to oversee the work performed by all corporations and enterprises under its jurisdiction, and to operate mechanisms in which vested interests ensure the preservation and appreciation of property. The APV Rt. is held accountable for protecting the state assets entrusted to it. The APV Rt. is obligated to report in this regard to the National Assembly or to its organs, and to the public, as necessary.

In cases involving large enterprises (corporations) of national significance, the APV Rt. is obligated to cooperate with the affected ministries and organizations of a national scope.

The prerogatives of, and possible paths of action available to the APV Rt. regarding the provision of guarantees related to privatization must be specified in the bylaws of the Corporation.

The APV Rt. is a single person stock corporation. The finance minister exercises the rights of stockholders. Corporations destined to remain under state ownership

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in the long term (characteristically, corporations and business shares in the AV Rt.'s portfolio) become part of the APV Rt.'s accumulated assets (balance sheet); with respect to AVU and KVSZ assets the APV Rt. acquires authority on the basis of assignment. (Accordingly, the latter group of assets does not become part of the organization's assets.)

The APV Rt. uses a certain proportion of its privatization revenues to cover its operating expenses; the organization pays taxes and the remaining after-tax profits directly to the state budget pursuant to the general rules and to the extent required. The APV Rt. pays proceeds from the sale of property assigned to it directly to the state budget, to reduce the amount of debt service. This provision is supported by a macroeconomic consideration: As the state household stands today, the best possible use of privatization revenues is to continuously pay off high-interest notes representing the state's indebtedness.

Except as provided for by law (guarantees, court-imposed obligations transferred from AVU and AV Rt.), the APV Rt. is not permitted to use privatization revenues for financing losses.

*3.1. The Oversight of the Privatization Organization*

In order to quickly and efficiently implement systematic privatization, it is necessary that the new privatization organization be strong and hard-hitting. To offset these qualities, the details of the social, political, legal, and audit mechanisms designed to oversee the activities of the APV Rt. are also provided for by law. In this regard the following basic principles are pertinent and serve as a starting point:

(1) The membership of bodies corresponding to the requirements of the Gt. [law on business organizations] (board of directors, supervisory committee) must be assembled so as to ensure the existence of mutual control between the government (and within that, the finance minister exercising the rights of stockholders, as well as the specialized ministries) on the one hand, and interest groups (employers, employees) on the other.

(2) The continuous auditing of APV Rt. by ASZ must be ensured, and committees of the National Assembly must be informed periodically, pursuant to a predetermined schedule.

(3) The managing bodies of the privatization organization (executive committee, supervisory committee) must be required to regularly inform the public of their most important decisions. Beyond this, a system must be established by which written records (memorandums) remain of all privatization decisions, especially if these are based on competitive bidding.

(4) By using techniques known from previous privatization laws, incompatibility rules must be enforced with respect to persons responsible for the management and oversight of the privatization organization.

(5) Judicial oversight must be continued, the way such oversight evolved in practice relative to decisions related to privatization. Pursuant to this practice, courts examine whether a given decision made by the privatization organization regarding a sale (the selection of the winning bidder) was made pursuant to rules published in the tender invitation. If the court finds that the privatization organization violated the decisionmaking criteria contained in the tender invitation, the court takes action to offset the inequity to the extent justified.

**4. Decisionmaking Mechanisms and Privatization Techniques**

The choice of decisionmaking mechanisms and privatization techniques used during the past four years must be concentrated in part, and expanded in part. Preferential terms of sale may be granted based on a case by case evaluation of each corporation to be sold, provided that such terms are spelled out in the individual tender invitations.

*4.1. Large Enterprises of Strategic Importance*

*4.1.1. General Principles*

A combination of privatization techniques should be used regarding these enterprises. Generally speaking, in the first step there is a need for an active investor, who renews the technical foundations of the enterprise, has organizing skills, and has broad knowledge of the market. This may be followed by the introduction of the stock at the stock exchange, and the sale of the state's reserved ownership share to institutional and small investors. The significance of these firms from the standpoint of the national economy warrants a requirement that the government approve the privatization concept, the method of changing ownership, and the timing of such change, in due regard to the expected macroeconomic effects of the privatization decisions.

Another important consideration is the fact that the privatization of industrial and financial corporations within this category provides a unique opportunity to substantially improve Hungary's international security from an economic, political and military standpoint. One possible way to accomplish this is to choose as partners certain active and/or financial investors, who themselves are multinational enterprises or multilateral organizations (e.g., the IFC [International Financial Corporation], the EBRD [European Bank for Reconstruction and Development]) capable of exerting strong influence on an international scale.

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Until the government plans to change ownership within this category of enterprises, the APV Rt. should make its decisions in the course of exercising its prerogatives as the owner in due regard to policies applicable to the branch of the economy to which a given enterprise belongs, and to macroeconomic considerations. The observance of two rules is of particular importance in this regard:

— the issue of whom to appoint as officials representing the state as the owner could be resolved in a satisfactory manner by requiring the minister responsible for the given industry branch to make recommendations, and permitting the APV Rt. to chose from among the persons recommended by the minister;

— requiring the representative of the APV Rt. to reconcile his position with professionals involved in the industry branch regarding strategic-development issues, not affecting the ownership share.

In order to quickly accomplish a large increase in the amount of foreign exchange revenues resulting from privatization, it is appropriate to establish a privatization supply composed of fragments of shares of stock of the highest quality Hungarian state corporations (MOL [Hungarian Oil and Natural Gas Corporation], MVM [Hungarian Power Plants Trust], etc.). This supply would provide an opportunity for the organizing of a privatization fund (country fund) which, from the standpoint of investors, would actually represent "pre-financing": The economy could have access already in 1995 to part of the privatization revenues expected to materialize later.

These funds could be purchased primarily by western institutional investors regarded as first class investors, but the right to purchase should also be granted to Hungarian private and institutional investors. Whether it is necessary/possible to establish only one or more funds should be decided in agreement with the potential investors. The package of shares of corporations within one and the same fund must not be greater than 25 percent of all shares of any given corporation. The question of whether a temporary (12 or 24 month) prohibition to sell the package of shares in a given fund should be imposed when a fund is established, merits consideration. Further examination is needed to determine the kind of financial technique that should be used to delimit from the top down the APV Rt.'s risk within the investment fund structure (e.g., negotiable bonds, guarantees to buy back the stock, etc.).

*4.1.2. Telecommunications*

The first stage of MATAV's [Hungarian Telecommunications Enterprise] privatization has come to a conclusion. Well capitalized, from a professional standpoint internationally eminent partners purchased a 30-percent ownership share in the corporation. The largest co-owner has pre-purchase rights for the stock still owned by the AV Rt. Following publication of the June 1995 financial statement, MATAV should be introduced at the stock exchange, and all the stock presently owned by the AV Rt., with a par value of about Ft40 billion, could be sold gradually during the second half of the year.

In Antenna Hungaria's case, Credit Commercial de France (CCF)—the consulting firm selected on the basis of a tender—has prepared the informational memorandum (the first version of that). The proposed strategy calls for a 30-percent increase in the basic capital of this Ft7.7-billion enterprise, without selling stock in the first step. After that, there would be an opportunity to introduce the firm at the stock exchange and to sell the state's ownership share.

In the course of the privatization process, with the cooperation of the Bureau of Economic Competition, long-term rules governing competition in the broadcasting market must be developed with great care.

*4.1.3. Electrical Energy Industry*

The privatization process is expected to accelerate in the near future. Promptly amending Government Decree No. 126/1992, previously amended several times, is indispensable in order to permit the evolution of clear-cut ownership conditions, as compared to the present situation built on dual ownership by AV Rt. and MVM Rt. A separate report to the government is being prepared concerning privatization strategy and settlement consistent with market forces; the report recommends that electric utility companies be privatized in the fall of 1994, and that the sale of saleable power plants begin in the course of 1995. The fundamental goal is to privatize by way of selling stock and attracting capital so as to observe both the revenue requirements of the state and the need to increase the capital of the electric industry, initially with the involvement of active investors, followed by the introduction of the stock of electric companies at the stock exchange and the participation of financial investors.

*4.1.4. MOL Rt.*

The privatization of MOL Rt. is one of the most important elements of AV Rt.'s 1994-95 privatization endeavors because of the national economic significance of this enterprise, and because of the amount of anticipated privatization revenues. Preparations for privatization have been going on since 1993. Upon the rapid completion

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of analytical work, a government decision regarding the privatization of MOL is needed.

*4.1.5. Gas Utilities*

Provided that the government renders a crucial decision regarding issues involving pricing, preparations for the privatization of gas utility companies enable the completion of actual sales during the fourth quarter of 1994 and the first quarter of 1995. The goal is to sell the ownership share of the state over and above the state's 25-percent plus one vote ownership share to an active investor. Thereafter the companies would be introduced at the stock exchange, and the state's reserved ownership share would be sold to Hungarian small investors.

*4.1.6. Pharmaceutical Industry*

Substantial progress has been made during the past years regarding the privatization of the six pharmaceutical companies in the AV Rt.'s portfolio.

From the standpoint of sales volume, the sale of Chinoin—started in February 1991—is the most important. At present, consistent with the legal minimum, the AV Rt. owns only 25 percent of the stock plus one share. From a practical standpoint, the privatization of EGIS has also been completed. The EBRD acquired a 30-percent share by increasing EGIS's capital; later on, this was followed by a public issue of the stock, and the introduction of EGIS stock at the stock exchange.

Human Rt. was sold as a result of an open investment tender and exchange of compensation vouchers so that the Hungarian state retained an ownership share of 50-percent plus one share. The Canadian investor is prepared to make an additional purchase, and introduction of the company at the stock exchange also appears to be a realistic expectation.

At BIOGAL and ALKALOIDA search for strategic partners is in progress; here, too, the goal is to establish a presence at the stock exchange in the second stage.

In Richter Rt.'s case, public sale, combined with an increase in basic capital, occurred at both the domestic and international stock exchanges in October 1944.

*4.1.7. Banking Sector*

Considering the significance of this branch and the ongoing consolidation of certain state-owned institutions, preparing for the further privatization of the financial institutions system—a strategic element of the national economy—demands special care. The precondition for having a bank privatization strategy is a comprehensive development strategy spanning the entire institutional system of the money market and the capital market. The development of such strategies is a governmental function.

Bank privatization requires the involvement of primarily active, strategic investors.

In the course of supervising and privatizing the financial institutional system, the APV Rt. proceeds pursuant to limitations and conditions incorporated in a consolidation agreement to be prepared by the branch ministry responsible for the implementation of bank consolidation.

*4.1.8. Regional Waterworks*

Regional waterworks performed their basic service function under conditions that could hardly be regarded as market conditions: for a long time, regional waterworks have been highly subsidized by the state, and have operated in the framework of an organizational structure akin to an authority. The practice followed in a number of market economies proves that this function can be performed more efficiently on business foundations, with less investment on part of society, and with smaller losses. Accordingly, foundations for the privatization of regional waterworks must be established with circumspect preparatory work, and in close cooperation with the branch ministry and with affected local governments.

The basic direction this transaction should assume could be to attract an investor active in the field, with substantial experience in the development and operation of regional waterworks. Thereafter, it would be appropriate to continue privatization by attracting institutional and small investors, with particular attention to the residents of the region, and to the market structure functioning in the region.

*4.1.9. Privatization of Agricultural Arable Land, and Forest Lands*

According to the government program, revising the land law, maintaining restrictions on the acquisition of ownership, and ensuring the pre-purchase rights of local producers must be accomplished without delay. The drafting of laws concerning forest lands and hunting is of similar significance. It would not be appropriate to advance the further privatization of these national assets until this preparatory work produces clear results.

*4.2. The Category of Medium Size Enterprises*

Companies with more than Ft600 million of basic capital, and with more than 500 employees, which cannot be regarded as having strategic significance from the standpoint of the Hungarian economy as a whole, should be sold for cash to foreign or Hungarian active

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investors if possible, pursuant to tender invitation and competitive bidding processes used by AVU. Short of a buyer willing to pay cash, one should also consider offers to increase the capital of the company sold. In this regard, too, the technique to be used should follow the sequence of finding an active investor, selling the stock at the stock exchange, and the attraction of institutional and small investors.

If, after several attempts no sale materializes, these companies should be sold on the basis of property management tenders.

The privatization of these companies should be directed by the leading body of the APV Rt., and that body should submit written reports of its activities every six months to the government and to the National Assembly committee having jurisdiction.

*4.3. Small Companies of Little Significance*

Small- and medium-sized companies characterized by less than Ft600 million in basic capital and by fewer than 500 permanent full-time employees are authorized by the law to develop their own privatization programs with the involvement of an expert (consultant), consistent with the principles established by the law. The APR Rt. publicizes a list of these companies. Such list must include the names and addresses of the companies, the types of activities they pursue, and their nominal worth based on book value (subscribed exchange capital plus capital reserves).

Any investor could purchase these companies from the APV Rt. for cash within a certain period of time, and the book value would be regarded as the starting price (limit price). The APV Rt. is obligated to satisfy demands of this nature in expedited proceedings, under special arrangements. The APV Rt. board of directors may deviate from the limit price by 20 percent, but is not permitted to accept cash offers amounting to less than the limit price minus 20 percent.

These business organizations must report their proposed privatization to the APV Rt. Such reports must describe all offers received by the companies. In case of several offers, the report must indicate which offer the company's management regards as most favorable. The APV Rt. must comment within a specified period of time on the offer regarded by the company as most favorable. If the APV Rt. does not object to the proposed privatization transaction, the business organization proceeds with privatization pursuant to the report it filed and to the principles established by the law. Considering the fact that shares of stock and business shares of these companies could also become parts of funds established by the APV Rt., these companies should have an opportunity to be bought back by an outside investor. Quite naturally, this transaction, too, is part of the privatization program requiring approval.

Intent to buy expressed by the managements and employees of these companies could be satisfied to a greater extent. Management and employee buyout offers would be submitted by the workers individually, or by a corporation of employees established for this purpose. In buyouts of this kind, offers other than cash offers could be accepted (e.g., E-credit ["Existential" loan], compensation vouchers, leasing, installment payments, etc.).

If, as a result of the buyout, managers and employees acquire majority control (50 percent of the shares plus one vote) in the company, the state transfers to the company free of charge its remaining ownership shares in the company.

Preferential payment terms applicable to the acquisition of ownership by employees are reflected in the new law consistent with the previously established rules.

*4.4. Preferential Terms for Small Investors*

The terms of contracts governing transactions subject to the Preferential Stock Purchase Program (KRP) initiated by the previous government must continue to be recognized.

Investors who purchase stock under an agreement to make future installment payments, may pay for their stock in a predetermined number—generally three—of installments. The first installment is due when the stock is claimed. Only cash payments can be accepted as installment payments. The scheduling of installment payments may vary from company to company, or in terms of time intervals (e.g., six months or 12 months). The anticipated inflation rate must be taken into consideration when entering into installment payment agreements.

Other characteristics of installment payment arrangements for stock purchase may be summarized as follows:

- The ownership of stock. Successful investors acquire ownership of the stock after the allocation of the stock, and may exercise the usual rights of stockholders (voting rights, the right to receive dividends), but may not sell the stock before paying off the installments due.
- Prepayment. Investors may prepay obligations incurred in the framework of any public sale.
- Bailment, and the release of bailment. To cover funds owed for stock purchased under an installment arrangement, the seller of the stock retains the shares as bailment.

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- Violation of contract. If an investor fails to make a scheduled installment payment when due, the seller has a right to reinstate his right to ownership with respect to all shares of stock purchased by the investor at a public sale of the stock of a given company.

Another possibility is to grant a 10-percent discount to those who do not take advantage of the opportunity to pay in installments, thus paying a reduced price immediately.

*4.5. Enforcement of Employee Interests*

There is a fundamental requirement that interest groups at work places familiarize themselves with every essential condition of privatization transactions, and that they be given an opportunity to express and present their views in detail. Real property used for charitable or social welfare purposes must not be sold without the concurrence of relevant interest groups. Accordingly, the law must provide procedural rules for decisionmaking forums and individuals, and must spell out employee interests and the order of representing such interests. The APV Rt., and the seller of the assets authorized by the APV Rt. must inform in writing the employee interest groups of a given company about circumstances that could affect employees in terms of

- their employment, earnings and wages, social welfare provisions, work conditions, and training;
- possible opportunities for the acquisition of employee ownership; and
- the utilization of company assets that serve welfare or social purposes.

Employee interest groups at the appropriate level must be informed of all the above circumstances when developing concepts for the individual branches, when tender invitations are issued for the sale of individual companies, and in the course of evaluations, but in any event, prior to rendering a decision regarding privatization. Regarding these issues, the APV Rt. considers the views expressed by interest groups after appropriately reconciling these issues.

When entering into privatization agreements, special attention must be paid to the inclusion in the agreement of guarantees for the continued operation of the social establishments owned by the company.

**5. Continuation and Conclusion of Compensation**

Consistent with the concept of legal continuity, the government intends to continue to provide compensation initiated by the previous government. The government attributes great significance to the need of not disrupting the acquisition of property by those who received compensation. A solution must be found which enables the exchange of a majority of compensation vouchers to the full extent and at an appropriate rate of appreciation by the end of 1995.

An appropriately broad demand for compensation vouchers must be established, and provisions must be made that as a result of the existing and the presently developed privatization techniques, all those who had received compensation vouchers by virtue of the compensation laws, or those who were forced to accept compensation vouchers in exchange for assets (e.g., agricultural cooperatives, regional local governments), may exchange their compensation vouchers at a proper price or exchange rate for stock, business shares, investment certificates or other types of assets.

In the course of further privatizing the food economy, special attention must be paid to the inclusion of cooperatives and cooperative associations in the process. The absorption of compensation vouchers should also aid the evolution of an agriculture built on the interdependent integration of procurement, production, processing, and sale.

Quite naturally, other forms of using compensation vouchers—life annuities, land purchase, etc.—will continue to be available, moreover, regarding life annuities, the possibility of providing additional benefits to stimulate holders of compensation vouchers to choose this form when exchanging their compensation vouchers, should be evaluated.

The secondary market for compensation vouchers must be maintained; the capital market must be used to strengthen confidence in compensation vouchers, and enable all those who wish to sell their compensation vouchers at the capital market to do so at prices that evolved on the public securities market.

In 1994 and 1995 the government has gradually tried to ensure the necessary supply of assets and has endeavored to create within a short period of time a high value supply representing large amounts of money for holders of compensation vouchers.

1. About 10 percent or 12 percent of the stock of reorganized corporation(s)—valued between Ft60-80 billion—resulting from the combined reorganization and privatization of the electrical industry, must be reserved for compensation purposes.

2. Minority shares can be sold in exchange for compensation vouchers, by establishing portfolio packages. The exchange of compensation vouchers may begin soon with respect to two investment stock corporations

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presently being organized by corporations under the jurisdiction of AVU. The number and size of funds must be expanded so as to provide a continuous opportunity for the commitment of all compensation vouchers.

3. With respect to a decisive majority of shares of assets offered for sale in public tenders, the law makes it possible to effect payment in the form of compensation vouchers, to an extent of 10 to 50 percent of the purchase price. Higher ratios than that may be agreed to exceptionally, primarily in the food economy, if the transaction involves compensation vouchers accumulated as a result of land sales.

**6. Basic Principles of Transferring Assets to Local Social Insurance Administration Boards**

*6.1. General Basic Principles*

The law enables local social insurance administration boards (TB) to receive state assets free of charge. The assets to be transferred to the Autonomous Health Care Board and the Autonomous Pension Insurance Board must be saleable and capable of producing returns. This requirement does not rule out the transfer of parts of assets which are not capable of producing returns at the time of transfer, or which produce small returns, if professional property management could render these assets profitable in the course of a few years. The transfer of such elements of property is justified by the functional scope and provider responsibility of the TB.

In general, TB's should not be the primary (majority) owners of productive social assets. Similarly, real property subject to transfer also constitutes an exception.

Property is transferred at market value. The offering price of the assets offered to be transferred must be determined on the basis of prices that have already materialized in the course of selling stock, or average prices that have materialized over an extended period of time at the secondary capital market, or on the basis of appraisals. The agreement to transfer property must show the mutually agreed-upon value or the exchange rate. The legal relationship between the beneficiary of property transfer and the obligor is the same as the legal relationship in stock or real estate sales agreements vis-a-vis an employee.

*6.2. The Form and Composition of the Assets To Be Transferred*

The assets to be transferred consist of corporate shares, real property, and the stock (investment certificates) of investment companies which consist of property portfolios [as published].

*6.2.1. Corporate Shares*

As a main rule: the minority shares of only those corporations may be transferred which cannot be included in investment portfolios, or whose ownership by the TB is directly indicated by provider or other interests. The primary assets to be offered are shares of large infrastructural corporation stocks, embodying minority rights. From the standpoint of service provisions, the minority shares to be individually transferred should come mainly from the service sector, the food and pharmaceutical industries, commerce, and from construction industry corporations.

*6.2.2. Real Property*

Individual pieces of real property may be transferred primarily to serve the operational purposes of the TB. The source of real property to be offered for transfer is the real estate withdrawn from enterprises prior to their transformation. It is appropriate to transfer assets which do not serve the operational needs of a TB, primarily in the form of real estate fund investment certificates or the stock of real estate investment companies.

*6.2.3. Investment Companies*

A significant volume of the assets to be transferred to the TB must be in the form of stock portfolios contributed to investment companies. As a result of this, the professional handling of the portfolio, the exchange of the portfolio with a reduced risk, and a balanced return can be ensured. The TB receives the stock of the investment company, and as a result of that, it becomes the majority owner (in some instances, 100 percent owner) of the investment company.

The smaller part of the investment companies' portfolios must be composed of liquid securities saleable at the capital market, and the larger part of minority shares from corporations in which the majority owner(s) is (are) a private investor(s). As a result of transferring assets, the TB may acquire a minority share in investment companies established for a different purpose or in funds (e.g., compensation funds, real estate funds).

*6.3. The Method of Transferring Assets*

Transfer of assets must begin by using up minority shares that accumulated in the course of previous privatization efforts. Further, the corporations over which the state exercises majority control must be examined, corporations in which the majority shares (on occasion the entire state ownership share) could be transferred to the TB.

In preparing for the privatization of state assets, minority ownership shares must be continuously separated and offered to TB's in a manner that fits into the privatization strategy. The stock of investment corporations

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to be established in the future may also be considered from the standpoint of transferring assets.

A portfolio offered for purposes of transferring assets must be held open for the TB, for a predetermined period of time. The length of the predetermined period of time must be streamlined with the operation of the TB's. Elements of assets not claimed by the TB, or about which the TB does not make a statement within the predetermined time period, may be used for another purpose.

The duty to provide information regarding partial assets is the same as the duty prescribed in conjunction with privatization. Regarding the party entitled to receive the assets, the duty to keep business secrets is identical to that applicable to participants in privatization tenders.

**7. Privatization Cash Receipts, 1994-97**

Prognostications regarding privatization revenues vary within a broad range. In realistic terms, aside from a few AVU transactions, the privatization of Richter Gedeon Rt. can be completed during the second half of 1994. The combined total annual cash receipts of the two state property management organizations amount to between Ft35 billion and 36 billion.

The privatization of electric and gas utilities is expected to take place during the first half of 1995. It would be unrealistic to assign a value to these companies as long as prices and rates are unknown. The book value of the installations to be privatized is Ft500 billion not counting MOL, and roughly Ft600 billion including MOL. Selling these companies at a price close to their nominal value could be regarded as an extraordinary success, but to accomplish this, it would be very important to offer to investors a favorable pricing structure and to predict increased revenues. The expected 1995 cash revenues of the new privatization organization amount to Ft190 billion.

Beginning in 1996, cash receipts may be expected from the sale of the TVK [Tisza Chemical Combine] and the BVK [Borsod Chemical Combine], and of the rest of the saleable enterprises from the earlier AV Rt. portfolio. Unfortunately, even the combined amount to be materialized from these enterprises will not produce more than Ft100 billion in revenues.

Quite naturally, these approximate figures can be maintained only if:

- the ministries provide far-reaching support to the privatization strategy outlined in the economic policy chapter of the government program, as detailed above, and if
- the new privatization organization is enabled to begin functioning on 1 January 1995.

Note: The above does not include the value of the agricultural and forest land portfolio at the AV Rt, which exceeds Ft1,000 billion, because these lands cannot be sold to foreigners, and therefore only artificial business transactions can be envisioned. No domestic demand for the cash purchase of land exists. This issue can be resolved only by legislation.

The market value of real property held by the KVSZ and still to be privatized amounts to between Ft5 billion and Ft10 billion. When this amount can materialize is, in part, a matter of timing, and in part a matter of establishing payment terms.

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